2002

Report of

Auditor General of Canada

to the House of Commons

APRIL

Foreword and Main Points

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

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AUDITOR GENERAL OF CANADA

CANADA

VÉRIFICATEUR GÉNÉRAL DU CANADA

To the Honourable Speaker of the House of Commons:

I have the honour to transmit herewith my first Report of 2002 to the House of Commons, which is to be tabled in the House in accordance with the provisions of subsection 7(5) of the *Auditor General Act*.

Sheila Fraser

Sheila Fraser, FCA
Auditor General of Canada

OTTAWA, 16 April 2002

Foreword

Foreword

Sheila Fraser, FCA
Auditor General of Canada

A Message from the Auditor General of Canada

Like its predecessors, this report to the House of Commons is about accountability. In the work presented in these eight chapters, we looked at all three links of the accountability chain—Parliament; central agencies of the federal government, such as the Treasury Board Secretariat; and departments. We looked for the arrangements that must be in place to ensure that money is collected and spent according to Parliament's wishes. Does Parliament have enough control over government spending? Have the central agencies established clear standards and provided leadership for key government initiatives? Do departments follow the established rules in managing their programs, and do they collect the information needed to report their results?

Parliament must have control over government spending

Accountable government requires that members of Parliament be able to approve the government's plans for spending and scrutinize the results of that spending.

Our first chapter, Placing Public Money Outside Parliament's Reach, notes that the government is disregarding this essential principle with increasing frequency. We examined arrangements in which billions of taxpayers' dollars are spent without adequate provision for accountability to Parliament.

These include delegated arrangements—private sector organizations established at arm's length from government, with discretionary authority to carry out federal objectives. They also include collaborative arrangements, which involve the federal government as a partner in program delivery with outside organizations.

The chapter follows up on cases we audited in 1999 and examines some major new delegated arrangements created by the federal government since then. Canadians rightly expect that Parliament will examine how the government spends their tax dollars and whether that spending achieves the intended purposes. However, the government has transferred billions of taxpayers' dollars to private foundations who will oversee the distribution of funds to the intended recipients. In many cases, these arrangements do not meet all three requirements that government departments would have to meet to ensure accountability to Parliament: credible reporting of results, effective ministerial oversight, and adequate external audit.

While the government acknowledges the need to address these issues, from the Treasury Board Secretariat's response to Chapter 1 it is not clear whether it agrees with our recommendations for putting these principles into practice.

We provide another example of the erosion of parliamentary control over government spending in Chapter 8, Other Audit Observations—the Treasury Board Secretariat's administration of the Government Contingencies Vote (Treasury Board Vote 5). Parliament has authorized the use of this Vote by the government to supplement other departmental votes and to pay "miscellaneous minor and unforeseen expenses not otherwise provided for."

We recognize that the government needs flexibility to deal with unforeseen events. However, it has used the authority of Vote 5 increasingly for new initiatives that would normally require Parliament's approval first. In 2001–02, for example, funds from the Vote were used to pay $95 million in grants to the airlines industry and $50 million in grants for sustainable development technology. In my view, the use of this Vote needs to be reviewed to ensure that it reflects Parliament's intent.

Government, through central agencies, must set the standards and provide leadership

Accountable government also depends on central agencies such as the Treasury Board Secretariat and the Privy Council Office. They provide the leadership and guidance needed to ensure that departments meet consistently high standards in approving, monitoring, and controlling expenditures.

We looked, for example, at the government's modern comptrollership initiative (Chapter 7, Strategies to Implement Modern Comptrollership). The government's goal is to integrate financial information with other information to improve the day-to-day management and stewardship of public resources. We looked to the Treasury Board Secretariat, as the lead agency in the modern comptrollership initiative, for a clear and structured approach that includes an action plan with timelines as well as milestones by which progress can be measured. We looked for evidence of strong senior management commitment and support for the initiative. Chapter 7 presents a status report on this important management reform. We have identified key areas where the initiative needs stronger commitment and support if it is to succeed. And we think parliamentarians need better information on how the reform is progressing.

Similarly, Chapter 3, Information Technology Security, reviews the current status of this increasingly important government-wide issue for which the Treasury Board is responsible. Security standards are out of date, and a plan to update them has not been completed. The government has not assessed the present state of information technology security, an important element of the Government On-Line initiative. Cyber threats such as viruses and other types of malicious damage could interrupt the smooth delivery of government services.

Departments must follow the rules in managing programs and must report their results

Finally, in carrying out government policies, departments must follow the rules established by the central agencies and use good management practices in general. They must also collect information that will enable them to report fully on the impact of their programs. Departments are accountable to their ministers who, in turn, are accountable to Parliament.

Following the rules

In Chapter 8, Other Audit Observations, we note two examples of departments who failed to follow good management practices in buying new technology.

Health Canada and Public Works and Government Services Canada failed to follow the government's contracting rules in awarding a $25-million contract to establish the Canadian Health Network. Work began without a written contract, equipment that was purchased was underused and its ownership not clearly identified, and expenses were overclaimed.

National Defence purchased a $174-million military satellite communications system completed in 1997–98, most of which has been in storage, unused, since its delivery.

We also note that the Canada Customs and Revenue Agency did not ensure that all requirements, as set out in its own policies and procedures, were met when renewing duty-free shop licences. We note further that despite its commitment to tender a licence at a certain location, the Agency renewed the licence without doing so.

Gathering information and reporting results

It is easy to underestimate the importance of managing information well in departments and programs. Without good information, we may be able to tell how much departments have spent but not whether they got the results they expected. Without good information about the size and nature of a problem, we cannot know for certain whether a program designed to address it has had an impact.

Chapter 2, Canada Customs and Revenue Agency—Tax Administration: Write-Offs and Forgiveness, reports on our review of the system for writing off uncollectable taxes and forgiving interest and penalties. We looked for data indicating that the Agency administers the tax system fairly and consistently and that taxpayers in similar circumstances anywhere in the country can expect the same treatment. Although the Agency is committed to fairness in principle, it does not collect and analyze information about its decisions to forgive interest and penalties. Such information would confirm whether the Agency's practices observe the principle of fairness.

In Chapter 4, The Criminal Justice System: Significant Challenges, we looked for information we could use to assess the impact of key challenges (such as justice issues related to youth and Aboriginal people, organized crime, victims' rights, and wrongful convictions). We also considered the impact of the various responses to those issues by separate organizations in their own jurisdictions. How do these responses affect the system's overall effectiveness? The government has not evaluated the impact of recent innovations on the criminal justice system.

The criminal justice system involves two and even three levels of government and many organizations—lawmakers, police, courts, correctional institutions—each with its own objectives and its unique information needs. On a national level, information is inadequate to assess the effectiveness of the system.

As well, information systems need to be updated significantly to allow for timely exchange of information on criminals and suspects. The organizations involved recognize that good information is essential to their work and to the overall effectiveness of the system. Efforts are under way to improve the quality and consistency of information. Though on the right track, progress has been slow, and cultural and financial obstacles have hampered improvements.

In Chapter 5, National Defence—Recruitment and Retention of Military Personnel, we note that as far back as 1990, this Office reported that human resource managers in National Defence lacked the data they needed to guide recruiting and attrition decisions for military occupations. Today, there are not enough trained personnel in the Canadian Forces to meet current occupational demands. Efforts to step up recruitment are themselves short-staffed, and the Department lacks employees with experience in human resource policies and practices. Despite its efforts to address the shortage of trained personnel, its results have fallen short of targets. A re-examination of the Department's approach to recruitment and retention seems to be in order.

Departments must collect, analyze, and report the data that would demonstrate that their programs are indeed carrying out the will of Parliament. Good information is critical to accountability, whether parliamentarians are voting on departments' annual spending, reviewing future years' priorities and plans, or examining past performance.

Departmental performance reports are the vehicles departments use to provide information to Parliament each year. A good departmental performance report tells Parliament what an organization has accomplished and what value Canadians are getting for the public money the department has spent.

In Chapter 6, A Model for Rating Departmental Performance Reports, we propose a model for assessing the performance reports that departments submit each year to Parliament. Thanks to three departments who volunteered to have us rate their performance reports for this purpose, we believe the model we propose will help all departments improve their reporting to Parliament and thereby improve accountability.

Conclusion

Establishing proper governance, providing leadership and guidance from the centre, managing programs effectively in departments, managing people well, collecting information, and reporting results—these are all essential ingredients of delivering good public services. As this report demonstrates, the government still has some distance to go before it achieves these objectives and the accountability that Canadians want and deserve.

Main Points

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Placing the Public's Money Beyond Parliament's Reach

Chapter 1

Main Points

1.1 The federal government has paid billions of taxpayers' dollars to private foundations and other delegated arrangements set up to achieve public objectives, transferring the funds years before Canadians receive the intended benefits. The government has delegated program responsibilities to these arrangements, but they are often beyond the reach of Parliament's scrutiny. We found that the essential requirements for accountability to Parliament—credible reporting of results, effective ministerial oversight, and adequate external audit—are not being met.

1.2 In the delegated arrangements we examined, reporting to Parliament is not adequate for parliamentary scrutiny. None of the arrangements submit corporate plans for tabling in Parliament. Nor do they all provide annual reports with a credible description of accomplishments.

1.3 These arrangements have been established in an ad hoc way, and Parliament has not had an opportunity to consider fully the resulting changes in how it authorizes and oversees this public spending. The government should seek the views of Parliament on the form and nature of scrutiny that is appropriate for the new arrangements.

1.4 Weak oversight of such arrangements is limiting ministers' answerability to Parliament. Other than appointing a minority of members to their boards of directors, the government has limited means of strategic monitoring of the arrangements and of making adjustments, should things go wrong or government priorities change. Moreover, the roles and responsibilities of federal appointees to the boards are not defined clearly.

1.5 Parliament is not receiving reports on independent, broad-scope audits that examine more than the financial statements of delegated arrangements, including compliance with authorities, propriety, and value for money. With a few exceptions, Parliament's auditor should be appointed as the external auditor of existing foundations and any created in the future, to provide assurance that they are exercising sound control of the significant public resources and authorities entrusted to them.

1.6 As our audit was completed, the Treasury Board adopted the Policy on Alternative Service Delivery, which addressed elements of governance and accountability, as we and the Public Accounts Committee had recommended in 1999. Central agencies still need to show stronger leadership to help ensure good governance and adequate accountability.

1.7 More needs to be done to ensure that the arrangements institute and maintain public sector values and ethics. Sponsoring departments should make provision for the responsible parties to be aware of their duty in this regard.

Background and other observations

1.8 In 1999 we audited new governance arrangements. Some were delegated arrangements, set up as private sector organizations that exercise discretionary authority to carry out federal objectives. Others were collaborative arrangements that involve the federal government as a partner in delivering government programs with outside organizations. That audit found significant weaknesses: the absence of a coherent governing framework, putting accountability to Parliament at risk.

1.9 Our audit this year followed up on the delegated and collaborative arrangements we examined in 1999. We also examined several major funds and foundations set up as delegated arrangements since then. One new foundation, Canada Health Infoway Inc., received $500 million from the federal government; others have received multiple payments amounting to, for example, $300 million to Genome Canada and $250 million for the Green Municipal Funds.

1.10 Although more effort is still required, the collaborative arrangements we examined showed improvement in a number of features of the governing framework.

The government has responded. The Treasury Board Secretariat's response, on behalf of the government and the departments we audited, is included at the end of the chapter. The government recognizes the need to address a number of the elements in our governing framework, but it is not clear from its response to what extent it agrees or not with most of our observations and recommendations for putting these elements into practice. The government seeks flexibility in setting up new governance arrangements, using means it considers appropriate to each case.

Canada Customs and Revenue Agency

Tax Administration: Write-Offs and Forgiveness

Chapter 2

Main Points

2.1 Under legislation referred to as the "fairness provisions," the Canada Customs and Revenue Agency can waive or cancel all or part of any interest or penalty owed by a taxpayer because of a delay or error by the Agency, circumstances beyond the taxpayer's or employer's control, or the taxpayer's inability to pay it. During the year ended 31 March 2001, the Agency waived or cancelled $185.3 million in interest and penalties.

2.2 The controls the Agency has put in place to guard against inappropriate forgiveness of interest and penalties are deficient. While the Agency has improved its administration of the fairness provisions, the fact that it does not record the amounts waived in interest and penalties and the reasons for waiving them is still a concern. The approval and monitoring processes also need to be strengthened and consistency and procedural fairness enhanced.

2.3 The *Financial Administration Act* or another legislative authority such as the *Bankruptcy and Insolvency Act* provides the Canada Customs and Revenue Agency with authority to write off uncollectible accounts. The Agency has reasonable controls in place to guard against inappropriate write-offs of taxes owed. However, it needs to strengthen the system by taking accrued interest into consideration and grouping related-party accounts together when considering approval to write off an account.

2.4 The Agency needs to take administrative action and/or seek legislative action to minimize the effects of a recent court decision that held that provincial limitations, which range from 2 to 20 years, apply to the collection of federal income taxes. The decision could prevent the Crown from collecting over $1 billion in owed income taxes and could result in different treatment of taxpayers who live in different provinces.

Background and other observations

2.5 The Agency manages a portfolio of taxes owed that is valued at over $13 billion. Most taxpayers who still owe tax when they file a return pay the balance promptly. However, some do not. Unlike businesses in the private sector, which can choose whether and to whom they will grant credit, the Agency must accept as accounts receivable all taxes owed by taxpayers. For the three-year period ended 31 March 2001, taxes owed that were written off averaged about $1 billion a year.

2.6 The Agency needs to monitor activities carried out on Canada's behalf by the Province of Quebec for GST accounts receivable—activities that include write-offs and the administration of the GST fairness provisions.

The Agency has responded. The Agency agrees with our recommendations and in its responses has indicated a number of actions under way to deal with them.

Information Technology Security

Chapter 3 Main Points

3.1 The revised Government Security Policy came into effect in February 2002, replacing the 1994 policy. It has a strong focus on information technology (IT) security and is an important step toward improving the governance of security across government.

3.2 We found that the IT security standards that support the Government Security Policy are out-of-date and a plan to update them has yet to be completed. The security policy will not be fully effective without updated standards, setting out the minimum requirements that departments and agencies must meet. The standards are an essential tool for supporting appropriate IT security practices across government.

3.3 Moreover, there was little monitoring of the 1994 policy. As a result, the government does not have enough information to assess the overall state of IT security. It does not have an adequate basis for determining whether current practices across government are acceptable, nor does it have an appropriate baseline for measuring future progress. Furthermore, the revised policy calls for a report on its effectiveness but not before summer 2004. In our view, a report is needed sooner.

3.4 The government has made a commitment to connect Canadians and provide them with on-line access to services. The Government On-Line initiative was launched to accomplish these goals. Security and privacy concerns have been identified as a key issue in this initiative. It is important that the government promptly address those concerns in order to support Government On-Line.

Background and other observations

3.5 Cyber threats are real and can do significant damage. Recent attacks using viruses and other types of malicious code have raised the profile of IT security. With the heightened awareness of national security, IT security is widely seen as essential to protecting our critical infrastructure.

3.6 Our audit of four departments found a number of weaknesses that could provide some insight into the state of IT security across government. They could help the government set priorities for the operational and technical standards it develops to support the revised Government Security Policy.

3.7 Although the departments have established a governance framework, they need to implement it better to make it fully effective. This is especially true in departments where responsibilities for information systems are decentralized and in departments with strategic partnerships and/or outsourcing relationships with other government organizations. Other improvements needed to address some weaknesses we identified include the following:

- conducting broad-based risk assessments and providing employees with adequate training in information security awareness;
- ensuring that IT security is considered at the start of a system development life cycle and that ongoing monitoring is carried out with appropriate scope; and
- carrying out audits and independent reviews periodically, including technical testing for potential vulnerabilities in network systems.

The government has responded. The Treasury Board Secretariat, on behalf of the government, has generally agreed with the recommendations. The government's responses, including the action that it is taking or intends to take to address the recommendations, are set out in the chapter.

The Criminal Justice System: Significant Challenges

Chapter 4

Main Points

4.1 Canada's criminal justice system faces major and complex challenges. It is trying to respond to crime committed by youths; make the justice system more responsive to Aboriginal peoples; address victims' needs; remedy wrongful convictions; prevent questionable plea-bargains; deal with organized crime; adjust to court decisions on police powers; provide police with lawful access to persons, property, and information; and ensure that criminal justice agencies share information effectively.

4.2 Criminal justice agencies are responding to these challenges with initiatives that affect most of the system. They include community safety and crime prevention programs; renewed approaches to youth justice; diversion programs to keep offenders out of the formal justice system; restorative justice programs; specialized courts; strategies to deal with organized crime; and development of integrated justice information systems.

4.3 The challenges and the responses have the potential to change the system significantly. Efforts have been made through numerous liaison and co-ordinating bodies to share information and co-ordinate their policies and program delivery.

4.4 For the most part, however, each agency manages key challenges and initiatives separately. This reflects the complex and multijurisdictional nature of the system. The agencies are accountable to federal and provincial legislative bodies and often to different ministries of the same government; some are accountable to municipal governments. Courts, which play a key role in the system, are independent from government.

4.5 The agencies and elected bodies may have different interests and priorities. As a result, it is difficult for the system to have an overall vision and common objectives and devise comprehensive strategies and co-ordinate their implementation. Further, federal initiatives are often developed and funded in response to pressing issues rather than on an integrated and sustained basis.

4.6 According to federal government agencies, the system's capacity to maintain a high standard of public safety is under severe strain. We believe the interrelationship of the challenges and initiatives and their collective impact need to be assessed. Without that knowledge, it is difficult to ensure that the initiatives are working together effectively rather than at cross purposes. Carrying out such an assessment may be difficult because there are major gaps in information.

Background

4.7 The formal criminal justice system is a complex network of independent but procedurally connected police, prosecutors, courts, correctional agencies, and parole boards. It costs governments at all levels at least $10 billion a year. The federal government estimates that the cost of crime to Canadians may be as high as $46 billion a year, when the impacts on victims and society are considered. Canadians responding to a 1999 survey by Statistics Canada said they had experienced about 8.3 million incidents that they believed were criminal. In 2000, police reported about 2.5 million *Criminal Code* crime incidents.

Federal agencies have responded. The Department of Justice Canada, Solicitor General Canada, Correctional Service Canada, and Statistics Canada have generally agreed with our observations. The specific views of each are presented in the responses at the end of the chapter.

National Defence

Recruitment and Retention of Military Personnel

Chapter 5

Main Points

5.1 The Canadian Forces needs to fill shortages in most of its military occupations. Over 3,000 positions are vacant, many of them in key occupations such as engineers, vehicle and weapons technicians, and doctors and dentists. Currently, there are not enough trained and effective personnel in the Canadian Forces to meet occupational demands.

5.2 Today's shortages are a result of actions taken when National Defence downsized in the mid-1990s. A reduced recruiting level, cuts in human resource management, a lack of information to monitor the health of occupations, and limitations in training capacity have contributed to the current problems. Human resource managers did not have the data to guide recruiting and attrition decisions for each of the military occupations. Today, the military population is unevenly distributed; there are not enough personnel in most occupations and too many in some.

5.3 The Canadian Forces recognizes that it needs to act now to address the shortages. It has increased recruiting and wants to triple its annual intake of new regular force military members from about 2,500 to 7,000 per year as part of its three-year recruiting strategy. Efforts are also under way to examine retention and to offer options to members who are deciding whether to leave or stay.

5.4 Despite efforts, the Canadian Forces' current push to recruit has not attracted enough new regular force members to meet its target of 7,000. We found that the Department is doing good work to correct problems with the recruiting system, but the expanded recruiting efforts are themselves short-staffed. And efforts need to focus more on diversity and on recruiting Canadians from minority groups.

5.5 Previous human resource practices have created peaks and valleys in the distribution of the military population that create some gaps in rank and age distribution and in experience. The Canadian Forces needs its skilled and experienced people to stay in the military and so is looking at retention options. However, many of the retention initiatives under way will be implemented only after some members have decided to leave, and it could take the Canadian Forces as long as 30 years to achieve a stable population profile.

5.6 We are concerned that few military personnel assigned to military human resource management have previous experience or training in human resource policies and practices. While there are opportunities available to take some human resource courses, the Canadian Forces would benefit by having a knowledgeable group, trained and experienced in managing the human resource changes needed over the long-term.

The Department has responded. Overall, National Defence has agreed with our findings and told us it will look at options to improve its human resource management. It also said it will take steps to report performance measurement results to Parliament at the earliest opportunity.

A Model for Rating Departmental Performance Reports

Chapter 6 Main Points

6.1 Departmental performance reports are an important means for Parliament to hold ministers to account for the money their departments spend and the results they achieve. A good performance report tells a department's or an agency's performance story. It tells Parliament what difference a department or an agency has made for Canadians, by presenting a coherent picture of performance. Good performance reports should tell Canadians what value they are getting for the taxes they pay.

6.2 As we reported in 2000, federal departments and agencies have made some progress over the past seven years in improving the quality of their performance reporting to Parliament, but their progress has been too slow. In 2001, a report by the House of Commons Standing Committee on Public Accounts stressed the value of reporting on performance. The Committee asked that we continue to assess departmental performance reports.

6.3 This chapter is a response to the Committee's request. It provides a method to assess the quality of performance reports. We offer a model for rating departmental performance reports by five criteria for good reporting; the model identifies different levels of reporting.

6.4 We expect that the rating model will be one of the tools available to departments that will help them improve their performance reports more rapidly than they have in the past. When a performance report is rated on this model over a number of years, the model can also be used to assess the department's progress in reporting.

6.5 Rating a department's performance report enables parliamentarians to do the following:

- compare the report with those of other departments that have also been rated;
- ask the department to take specific steps that will improve its report; and
- assess the department's progress in improving its report if it has been rated previously.

6.6 We demonstrate the usefulness of our rating model by applying it to three recent performance reports: those of the Royal Canadian Mounted Police, Environment Canada, and Fisheries and Oceans Canada.

Background and other observations

6.7 Most federal departments and agencies submit a performance report to Parliament every fall. The report outlines what the department has accomplished over the past year toward the commitments it made in its earlier report on plans and priorities.

6.8 We first commented on this reporting regime in 1997. We found that a good start had been made and that the basic reporting framework was sound. In 2000 we followed up on that government-wide audit with another assessment of the government's progress in reporting performance. We described the strengths and weaknesses of the reporting regime and said that progress was too slow.

6.9 Since 1995, when the Improved Reporting to Parliament project began, the Treasury Board Secretariat has played a leadership role in improving the government's performance reporting regime. In its guidelines for preparing the 2000–01 departmental performance reports, the Treasury Board Secretariat included principles of good reporting and a lexicon of reporting terms.

6.10 Based on our previous work, on pilot testing of the rating model, and on consultation with a variety of experts, we have elaborated on the five criteria for good performance reporting that we introduced in 1997. They are consistent with the principles set out by the Treasury Board Secretariat in 2001. Improvements to the model will be made as we continue to use it, and further changes will be suggested by departments as they gain experience from applying it to their own reports.

The government has responded. The government is generally supportive of this chapter and our model. Its comments are included at the end of the chapter.

Strategies to Implement Modern Comptrollership

Chapter 7

Main Points

7.1 The Treasury Board Secretariat established the Comptrollership Modernization Initiative in 1997 to strengthen management capabilities in departments and agencies. The success of the initiative will enable departments and agencies to manage more effectively the resources entrusted to them and to account more fully to Parliament and taxpayers for the use of those resources.

7.2 Establishing sound comptrollership capabilities throughout the government has two key prerequisites: a clear, structured approach; and strong commitment and support from senior management in departments and the Secretariat and from Parliament.

7.3 We are concerned that the commitment and support need to be strengthened in key areas, such as ensuring that departments clearly understand comptrollership, providing direction and guidance, and monitoring progress.

7.4 Only three of the seven departments we audited have comprehensive strategies for implementing modern comptrollership. We found that in general,

- departmental action plans either did not specify timelines or did not establish targets or milestones by which to measure progress,
- many managers did not understand the concept of modern comptrollership, and
- departmental plans did not include estimates of the cost to implement modern comptrollership.

7.5 The Treasury Board Secretariat (TBS) has a clear role: to provide overall guidance and direction for the comptrollership initiative and to provide Parliament with information on progress across government in implementing modern comptrollership. We found that while the TBS is committed to the initiative, it needs to provide much clearer direction and guidance on how to put into practice key aspects of comptrollership. It needs to set clear expectations for departments and dates by which they are to be met.

7.6 The information that departments and the Treasury Board Secretariat provide to Parliament does not show clearly how well or how poorly departments are doing at modernizing their comptrollership practices. Nor does it show the enormity and importance of the task and the risks the government faces if departments and agencies fail to firmly entrench strong comptrollership capabilities in their culture and their day-to-day operations.

Background and other observations

7.7 The initiative to modernize comptrollership is a management reform involving changes in the management mindset and corporate culture of the public service. Modern comptrollership goes beyond traditional comptrollership, which focusses mainly on financial information. Modern comptrollership is about strengthening management practices and integrating financial information with other performance information. Stronger comptrollership across government is essential to managing risks and resources more effectively, making better decisions, and ultimately improving the effectiveness of the public service. Strong comptrollership capabilities will also strengthen departments' ability to account to Parliament and to taxpayers for what they have accomplished with the resources entrusted to them.

7.8 As part of phase 1 of the Comptrollership Modernization Initiative, 15 pilot departments were required to carry out an initial self-assessment of their comptrollership capabilities. The self-assessments showed that departments had a number of deficiencies in such key areas as their ability to exercise effective stewardship over resources and to combine or integrate financial and non-financial performance information for decision making.

The Treasury Board Secretariat has responded. The Secretariat has indicated the actions it has planned or has under way that address the recommendations. Its detailed response follows each recommendation throughout the chapter.

Other Audit Observations

Chapter 8

Main Points

8.1 This chapter fulfils a special role in the Report. Other chapters normally report on value-for-money audits or on audits and studies that relate to operations of the government as a whole. Other Audit Observations discusses specific matters that have come to our attention during our financial and compliance audits of the Public Accounts of Canada, Crown corporations, and other entities, or during our value-for-money audits or audit work to follow up on third-party complaints.

8.2 This chapter covers the following:

- Health Canada and Public Works and Government Services Canada—Government contracting rules and regulations were not followed.
- National Defence—Military satellite communication system is unused and placed in storage.
- Canada Customs and Revenue Agency—Process for renewal of duty-free shop licences needs to be improved.
- Treasury Board Secretariat—Departments are paying hundreds of millions of dollars in grants before receiving Parliament's authorization.

8.3 Although audit observations report matters of significance, they should not be used as a basis for drawing conclusions about matters not examined.

Report of the Auditor General of Canada to the House of Commons—April 2002

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Chapter 1

Placing the Public's Money Beyond Parliament's Reach

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Chapter

1

Placing the Public's Money Beyond Parliament's Reach

The audit work reported in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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Placing the Public's Money Beyond Parliament's Reach

Main Points

1.1 The federal government has paid billions of taxpayers' dollars to private foundations and other delegated arrangements set up to achieve public objectives, transferring the funds years before Canadians receive the intended benefits. The government has delegated program responsibilities to these arrangements, but they are often beyond the reach of Parliament's scrutiny. We found that the essential requirements for accountability to Parliament—credible reporting of results, effective ministerial oversight, and adequate external audit—are not being met.

1.2 In the delegated arrangements we examined, reporting to Parliament is not adequate for parliamentary scrutiny. None of the arrangements submit corporate plans for tabling in Parliament. Nor do they all provide annual reports with a credible description of accomplishments.

1.3 These arrangements have been established in an ad hoc way, and Parliament has not had an opportunity to consider fully the resulting changes in how it authorizes and oversees this public spending. The government should seek the views of Parliament on the form and nature of scrutiny that is appropriate for the new arrangements.

1.4 Weak oversight of such arrangements is limiting ministers' answerability to Parliament. Other than appointing a minority of members to their boards of directors, the government has limited means of strategic monitoring of the arrangements and of making adjustments, should things go wrong or government priorities change. Moreover, the roles and responsibilities of federal appointees to the boards are not defined clearly.

1.5 Parliament is not receiving reports on independent, broad-scope audits that examine more than the financial statements of delegated arrangements, including compliance with authorities, propriety, and value for money. With a few exceptions, Parliament's auditor should be appointed as the external auditor of existing foundations and any created in the future, to provide assurance that they are exercising sound control of the significant public resources and authorities entrusted to them.

1.6 As our audit was completed, the Treasury Board adopted the Policy on Alternative Service Delivery, which addressed elements of governance and accountability, as we and the Public Accounts Committee had recommended in 1999. Central agencies still need to show stronger leadership to help ensure good governance and adequate accountability.

1.7 More needs to be done to ensure that the arrangements institute and maintain public sector values and ethics. Sponsoring departments should make provision for the responsible parties to be aware of their duty in this regard.

Background and other observations

1.8 In 1999 we audited new governance arrangements. Some were delegated arrangements, set up as private sector organizations that exercise discretionary authority to carry out federal objectives. Others were collaborative arrangements that involve the federal government as a partner in delivering government programs with outside organizations. That audit found significant weaknesses: the absence of a coherent governing framework, putting accountability to Parliament at risk.

1.9 Our audit this year followed up on the delegated and collaborative arrangements we examined in 1999. We also examined several major funds and foundations set up as delegated arrangements since then. One new foundation, Canada Health Infoway Inc., received $500 million from the federal government; others have received multiple payments amounting to, for example, $300 million to Genome Canada and $250 million for the Green Municipal Funds.

1.10 Although more effort is still required, the collaborative arrangements we examined showed improvement in a number of features of the governing framework.

The government has responded. The Treasury Board Secretariat's response, on behalf of the government and the departments we audited, is included at the end of the chapter. The government recognizes the need to address a number of the elements in our governing framework, but it is not clear from its response to what extent it agrees or not with most of our observations and recommendations for putting these elements into practice. The government seeks flexibility in setting up new governance arrangements, using means it considers appropriate to each case.

Introduction

1.11 In our work on new governance arrangements, we distinguish between *collaborative arrangements* and *delegated arrangements*. In 1999 we audited new governance arrangements across the government, examining 10 collaborative and 7 delegated cases (November 1999 Report, Chapter 23, Involving Others in Governing: Accountability at Risk). Other audits that year examined two of those arrangements in greater detail: the Canada Infrastructure Works Program, a collaborative arrangement; and the Canadian Adaptation and Rural Development Fund, a delegated arrangement.

Collaborative arrangements—In these arrangements the federal government is a partner with other orders of government, non-governmental organizations, and the private sector in delivering programs.

Delegated arrangements—They are set up as separate legal organizations that exercise discretionary authority to redistribute public money, use public assets, or deliver public services on the government's behalf.

1.12 Our 1999 audit found serious weaknesses in the governing framework of new governance arrangements. Accountability to Parliament was placed at risk unnecessarily. We called for comprehensive remedial action, including stronger leadership from central agencies and specific actions by the federal departments that sponsored the arrangements. At the same time, we recognized that new governance arrangements could be undertaken for a good reason: their potential for more efficient, more client-oriented service delivery.

The federal government continues to use new governance arrangements

1.13 Some of the arrangements we examined in 1999 have received additional federal funding since then, particularly in the 2000 and 2001 budgets. Moreover, the federal government is establishing new arrangements; it announced several in the 2000 Budget. Initial plans to set up new foundations, announced in the 2001 Budget (the Strategic Infrastructure Foundation and the Africa Fund), have been changed; these initiatives will be in the form of traditional government programs. In this audit, we followed up on our 1999 cases and examined seven new arrangements. Exhibit 1.1 lists the arrangements we audited and those we followed up from 1999. Further detail is provided in Appendix A.

1.14 In 1999, we surveyed the federal government's use of new governance arrangements. We found 77 arrangements; the federal government had contributed a total of $26.2 billion to them between 1990 and 1999. We did not carry out a similar survey for this audit, but we noted that the federal government has committed a total of just over $6 billion in additional funding for the arrangements discussed in this chapter, both the new ones we audited and those we followed up from 1999.

Concerns about accountability to Parliament

1.15 Delegated arrangements can be grouped according to how the federal government funds them. The choice of funding mechanism has important consequences for the accountability relationship with the federal government. We noted the following approaches to federal funding:

- **Transfers to foundations.** Some funds and foundations such as Genome Canada receive federal funding in advance lump-sum grants and redistribute the money to eligible recipients over several years, under a funding agreement with the federal government.

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- **Funding through contributions.** Other bodies, for example, the Canadian Television Fund, receive federal money annually through contribution agreements with the federal government. Contributions are conditional transfer payments for a specified purpose and are subject to being accounted for and audited.
- **Distinct funding.** In a third category are delegated arrangements funded by distinct methods. The St. Lawrence Seaway Management Corporation (SLSMC), for example, was funded through the transfer of assets from its predecessor Crown corporation to SLSMC and two property trust funds.

Greater risks to accountability in foundations

1.16 In collaborative arrangements, the governing framework's weaknesses are mainly in the level of co-ordination between the partners. A federal partner department or agency is accountable to Parliament in the traditional ways for the federal portion. But the accountability of the arrangement as a whole can be deficient in important respects. Shared accountability requires that more attention be paid to the relationship between the partners and the relationship each has with its governing body. The deficiencies require continuing attention, as we emphasized in our 1999 audit.

Exhibit 1.1 New governance arrangements examined in this audit

Delegated	Collaborative
New arrangements audited	
Canada Foundation for Sustainable Development Technology[1]	Infrastructure Canada[3]
Canada Health Infoway Inc.	
Canadian Foundation for Climate and Atmospheric Sciences	
Genome Canada	
Green Municipal Enabling Fund[2]	
Green Municipal Investment Fund[2]	
Arrangements followed up	
Canada Foundation for Innovation	Canada–Alberta Labour Market Development Agreement
Canada Millennium Scholarship Foundation	Canada-Wide Accord on Environmental Harmonization
Canadian Adaptation and Rural Development Fund	Canada's Model Forest Program (Foothills Model Forest)
Canadian Health Services Research Foundation	Canadian Industry Program for Energy Conservation
Canadian Institute for Health Information	Employability Assistance for People With Disabilities
Canadian Television Fund	Health Transition Fund
St. Lawrence Seaway Management Corporation	Loan Investment Fund Program
	National Child Benefit

[1] We examined the provisions in the federal government's funding agreement with the Foundation for Sustainable Development Technology in Canada and other related documents. We also examined the provisions of the *Canada Foundation for Sustainable Development Technology Act* (Bill C-4), which continued the Foundation as the Canada Foundation for Sustainable Development Technology; the Act had not come into force at the time of our audit.

[2] The Green Municipal Enabling Fund and the Green Municipal Investment Fund have similar enough governance attributes that we consider them together in this chapter. At the time of our audit, amendments to their funding agreements were under negotiation. The sponsoring departments informed us that these amendments would address a number of elements of the governing framework.

[3] The municipal infrastructure initiative was announced in the 2000 Budget.

- **Funding through contributions.** Other bodies, for example, the Canadian Television Fund, receive federal money annually through contribution agreements with the federal government. Contributions are conditional transfer payments for a specified purpose and are subject to being accounted for and audited.
- **Distinct funding.** In a third category are delegated arrangements funded by distinct methods. The St. Lawrence Seaway Management Corporation (SLSMC), for example, was funded through the transfer of assets from its predecessor Crown corporation to SLSMC and two property trust funds.

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Exhibit 1.1 New governance arrangements examined in this audit

[illegible]	[illegible]
[illegible]	
Canada Foundation for Sustainable Development Technology[1]	Infrastructure Canada[3]
Canada Health Infoway Inc.	
Canadian Foundation for Climate and Atmospheric Sciences	
Genome Canada	
Green Municipal Enabling Fund[2]	
Green Municipal Investment Fund[2]	
[illegible]	
Canada Foundation for Innovation	Canada–Alberta Labour Market Development Agreement
Canada Millennium Scholarship Foundation	Canada-Wide Accord on Environmental Harmonization
Canadian Adaptation and Rural Development Fund	Canada's Model Forest Program (Foothills Model Forest)
Canadian Health Services Research Foundation	Canadian Industry Program for Energy Conservation
Canadian Institute for Health Information	Employability Assistance for People With Disabilities
Canadian Television Fund	Health Transition Fund
St. Lawrence Seaway Management Corporation	Loan Investment Fund Program
	National Child Benefit

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[3] The municipal infrastructure initiative was announced in the 2000 Budget.

1.17 In delegated arrangements, the risks to good governance and accountability are higher. This is true of foundations, which have received most of the federal funds provided to delegated arrangements. Since delegated arrangements are established as non-profit corporations operating at arm's length from the federal government, their accountability to Parliament is in question. For these reasons, we have modified the governing framework we used as a model in 1999 and placed more emphasis on the essential requirements for accountability to Parliament (Appendix B).

Key developments since 1999

1.18 Much has happened since November 1999 that bears on the governance and accountability of these new arrangements. In particular, the issues associated with foundations and other delegated arrangements are attracting Parliament's attention.

1.19 The Public Accounts Committee held hearings on our 1999 audits and reported to the House of Commons in June 2000. The Committee's Eleventh Report dealt with Chapter 17, Canada Infrastructure Works Program: Phase II and Follow-up of Phase I Audit. Its Thirteenth Report considered Chapter 23, Involving Others in Governing: Accountability at Risk; and Chapter 24, The Canadian Adaptation and Rural Development Fund: An Example of Involving Others in Governing. The Public Accounts Committee's recommendations and the government's response to them are summarized in Appendix C.

1.20 On several occasions other parliamentary committees have considered issues related to delegated arrangements, including the following:

- The House of Commons Standing Committee on Industry, Science, and Technology met with the President and CEO of the Canada Foundation for Innovation in April 2001. Committee members expressed concerns about their lack of power to monitor this type of agency and about the limited role of the Auditor General. The same Committee considered science and technology policies in May 2001. Members questioned the Executive Director of Genome Canada about the ethical standards guiding the allocation of federal funds to private sector projects.
- In June 2001, the Senate Standing Committee on National Finance considered amendments to the 1997 *Budget Implementation Act*, which broadened the eligibility for funding by the Canada Foundation for Innovation to include operating and maintenance costs as well as projects located outside Canada. In addition, another $1.25 billion was provided to the Foundation.
- From March to June 2001, both the House of Commons Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources and the corresponding Senate standing committee examined Bill C–4, an Act to establish a foundation to fund sustainable development technology. Parliamentarians expressed serious concerns about accountability and governance during the passage of Bill C–4. The government provided $50 million in funding to the Foundation for Sustainable Development Technology in Canada, established under the

> *Canada Corporations Act*, to carry out a sustainable development technology initiative before Parliament had explicitly approved either the initiative or the funding.

1.21 **Problems with the accounting.** From fiscal years 1996–97 to 2000–01, the government paid $7.1 billion through transfers to nine foundations to achieve various policy objectives such as encouraging innovation, assisting students with post-secondary education costs, and developing information technology systems for health care. It is a clearly stated government strategy to introduce spending initiatives only when the government is reasonably certain that it has the necessary resources. This is appropriate and prudent.

1.22 The government has treated the $7.1 billion in transfers to foundations as an expenditure. At 31 March 2001, however, almost the entire amount was still in the bank accounts and other investments of the foundations. Very little of it had actually been received by the ultimate intended recipients, namely the innovators, students, and health care providers. In substance, then, the $7.1 billion, or most of it, is not really an expenditure of the government.

1.23 The recording of these transfers as expenditures is an accounting treatment that enables the government to report a lower annual surplus. On several occasions, this Office has stated its view that decisions to transfer such significant amounts of taxpayers' money should be based on sound economic and policy analysis; they should not be made to achieve a desired accounting result such as reducing the reported annual surplus. We have said that this accounting treatment compromises the integrity of the government's reported financial results.

1.24 The Auditor General's Observations on the government's financial statements in the *Public Accounts of Canada* 2000–01 addressed the accounting treatment of transfers to foundations:

> I cannot state unequivocally that the Government has not complied with objective accounting standards established by the Canadian Institute of Chartered Accountants' Public Sector Accounting Board (PSAB). Objective accounting standards promulgated by PSAB cannot anticipate all the new things governments will do, and the Government's own stated accounting policies allow it the latitude to record these transfers as expenditures of the year in which the foundations were announced. However, PSAB does recommend that financial statements be prepared to present the substance of transactions and events.
>
> In light of questions and concerns raised about the accounting by governments in Canada for transactions such as those involving the foundations, PSAB has initiated two projects to clarify accounting standards in these areas. The Government should closely monitor progress on these two projects, due to the amount of public money involved with the foundations and the resultant distorting effects of its current accounting policies.

> I urge the Government to change its policies as they relate to the foundations in next year's financial statements to properly account for the substance of these transactions. This change should be consistent with other changes to introduce accrual accounting next year.

Focus of the audit

1.25 We followed up on the findings of our previous audit and examined selected new arrangements announced since November 1999. The audit addressed a number of questions:

- Are these arrangements continuing to place accountability to Parliament at risk unnecessarily?
- Are sponsoring departments establishing appropriate governing frameworks in newly created arrangements?
- Are the government, the Treasury Board Secretariat, and sponsoring departments taking action to address our recommendations and those of the Public Accounts Committee?

1.26 In this audit, including our follow-up work, we examined the adequacy of the governing framework for delegated arrangements and whether changes had been made in response to our recommendations. In particular, we sought to determine whether essential requirements for accountability to Parliament were being met. In the new arrangements we audited, we also focussed on provisions for protecting public sector values and ethics and encouraging an organizational culture that respects these values and on the role that federal appointees play on boards of directors and in related governing bodies.

1.27 In one new collaborative arrangement, Infrastructure Canada, we examined the adequacy of the governing framework. We also followed up on the collaborative arrangements examined in 1999.

1.28 Further details on our audit objectives, scope, and criteria can be found at the end of the chapter in About the Audit.

Observations and Recommendations

Delegated arrangements—evading parliamentary scrutiny

1.29 The federal government has traditionally relied on departments, departmental corporations, and Crown corporations to redistribute public money to individuals and businesses for a variety of purposes, including scientific research and economic development. The Social Sciences and Humanities Research Council, for example, is a departmental corporation that promotes and assists research in the humanities and the social sciences; the Canada Council for the Arts is a Crown corporation that supports the arts. Each awards grants independently, without ministerial intervention. Although at arm's length from the government, the granting councils remain accountable through ministers who answer for them in Parliament and through well-established frameworks for governance and accountability.

1.30 When the government began using foundations to redistribute public money, it created a different framework. Federal ministers and officials explained this framework when appearing before parliamentary committees. They said that governance is established through the non-profit corporate structure of the foundations. The board of directors and the members of the corporation have subject-matter expertise, and the government appoints a minority of both. There are no shareholders in a non-profit corporation, but the members are expected to scrutinize the foundation's activities as shareholders would. Directors are to operate the foundation in an open and transparent way. Public information is available through the annual report, which includes audited financial statements; in a few cases, the annual report is tabled in Parliament.

1.31 The basic agreement between the federal government and the foundation is the funding agreement, signed by the sponsoring ministers. The funding agreement is a legally binding contract that places obligations on both parties. The funding agreements we examined have many provisions in common, including requirements for a public annual report, independent financial audit, and evaluation studies.

1.32 **Placed at arm's length.** The government refers to the foundations as designed to be at arm's length from it. Once public money is in a foundation's hands, the government relies on the expertise and professionalism of its directors and members to perform their functions properly. The government expects them to use their good judgment to achieve the foundation's objectives with the money provided. In the government's view, a number of provisions of the funding agreements create the arm's-length relationship between it and the foundations. For example, the government appoints only a minority of directors. Other such provisions include a requirement that, upon winding up, the fund or foundation not return any remaining money to the federal government but distribute it to eligible past recipients or related entities.

1.33 In their governance and accountability, these funds and foundations are clearly further away from the government than the granting councils are. They are not formally answerable to Parliament through ministers. In our view, the foundations have been placed beyond the reach of effective ministerial oversight and parliamentary scrutiny.

Limited exposure to Parliament

1.34 The statutory authority for 8 of the 13 delegated arrangements we examined is the *Canada Corporations Act*, the federal non-profit framework law. Only three arrangements were established by direct legislation, namely, the Canada Millennium Scholarship Foundation, the Canada Foundation for Innovation, and the Canada Foundation for Sustainable Development Technology. In each of these arrangements, the legislation maintained the same type of arm's-length design. The two remaining arrangements were incorporated under provincial law or an existing federal statute.

1.35 The choice of means other than legislation to create such arrangements is, in itself, a barrier to accountability to Parliament. Direct legislation is a way to tailor the design of an organization and facilitate good governance and accountability. The legislative process provides opportunities for review, debate, and approval in both houses of Parliament and careful study of the legislative proposals by parliamentary committees. Parliament determines the mandate, governance, and accountability provisions of the arrangement. The use of direct legislation also allows Parliament to retain control over future changes in the arrangement's design and governance, in that changes may be made only by amending the legislation.

1.36 The Privy Council Office has responsibilities that relate to delegated arrangements. It is involved in machinery-of-government issues, that is, the form and design of departments and agencies. We believe the Privy Council Office should play a stronger role in shaping the legislative provisions for governance and accountability of future delegated arrangements.

1.37 **Recommendation.** If the federal government decides to create delegated arrangements that involve significant changes in policy or significant commitments of public funds or assets, it should do so through direct legislation. The Privy Council Office should ensure that this legislation meets the essential requirements for good governance and accountability to Parliament.

A governing framework

1.38 The governing framework used to assess delegated arrangements comprises the features that we believe are essential for good governance and accountability to Parliament along with other key elements, including mechanisms for accountability, transparency, and the safeguarding of public sector values and ethics. It builds on the framework we developed in 1999 and is shown in Exhibit 1.2, and in more detail in Appendix B.

Essential requirements for accountability to Parliament not met

1.39 To examine the government's approach to foundations and other delegated arrangements, we considered how the features of the governing framework apply in each of the arrangements we examined. We began with accountability to Parliament, a primary focus of our audit. Exhibit 1.3 summarizes what we found in examining the funding agreements and related documents for the new foundations. In some cases, features are applied on a voluntary basis, rather than through agreements.

Reporting to Parliament and the public needs improvement

1.40 We expected the arrangements to be reporting appropriately to Parliament and the public on their plans, on the extent to which they have achieved their federal public policy purposes, on their spending and investment of federal public money, and on their stewardship of federal assets. It is particularly important that Parliament be kept informed about transfers

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to foundations, which are payments of public funds made many years in advance of need. Typically, these matters should be reported in corporate plans and annual reports. In addition, evaluation findings on the overall performance of the arrangement should be tabled in Parliament.

1.41 We noted that the Treasury Board's revised transfer payment policy, which came into effect in June 2000, requires that departments report to Parliament on arrangements, including foundations, that are funded by grants or contributions. In their reports on plans and priorities, sponsoring departments are to provide the arrangements' objectives and expected results, and in their departmental performance reports the results the arrangements have achieved. We expected the arrangements' funding agreements to include specific provisions for reporting this information to the sponsoring departments, to ensure that the policy's requirements are understood and can be met by the arrangement.

Exhibit 1.2 A framework for new governance arrangements

To ensure accountability to Parliament

Reporting to Parliament and the public

- Corporate plans
- Annual performance reporting, including audited financial statements
- Evaluation results

External audit regime

- Broad-scope audit reported to Parliament

Ministerial oversight

- Strategic monitoring mechanisms, including compliance audit
- Procedures to effectively deal with non-performance

To establish effective accountability mechanisms

- Clear roles and responsibilities
- Performance expectations that are balanced with capabilities
- Specific performance expectations
- Provisions for independent evaluation
- Dispute resolution mechanisms

To ensure adequate transparency

- Public access to information
- Communicating of information on key policies and decisions

To protect public sector values and ethics

- Consideration of relevant federal policies
- Responsiveness to public concerns
- Public sector codes of conduct and conflict-of-interest provisions
- Fairness in program delivery

1.42 All but one of the 13 delegated arrangements we examined—both the new foundations and the arrangements we audited in 1999—publish annual reports, but only four make provision for tabling of the reports in Parliament. The annual reports include audited financial statements (with the exception of the Green Municipal Funds, whose accounts form part of the audited financial statements of the Federation of Canadian Municipalities). Natural Resources Canada and Environment Canada, the sponsoring departments of the Green Municipal Funds, agreed to report to Parliament on the funds' performance in their departmental performance reports. In a memorandum of understanding, the departments undertook to provide Parliament with a "coherent and integrated perspective on the performance of the funds" in their respective areas of responsibility.

Exhibit 1.3 Do the new foundations include essential elements of accountability to Parliament?

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Reporting to Parliament and the public					
Reporting expected performance to Parliament (for example, in corporate plan)	● (in annual report)	○	● (in annual report)	○	○
Reporting performance results to Parliament	●	○	●	●	○
Reporting performance results to the public	●	●	●	●	●
Reporting audited financial statements to Parliament	●	○	●	○	○
Reporting evaluation results to Parliament	●	○	●	○	○
External audit regime					
Financial, compliance, and value-for-money audits	Financial audits only	Financial audits only	Financial audits only	Financial audits only	Financial audits only
Ministerial oversight					
Strategic monitoring	● (voluntary)	○	● (voluntary)	● (voluntary)	○
Ministerial direction and action	○	○	○	○	○
Departmental audit and evaluation	○	○	● (evaluation)	● (evaluation)	○
Termination	○	● (recovery of funds)	● (recovery of funds)	○	○

● Yes ○ No

to foundations, which are payments of public funds made many years in advance of need. Typically, these matters should be reported in corporate plans and annual reports. In addition, evaluation findings on the overall performance of the arrangement should be tabled in Parliament.

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Exhibit 1.2 A framework for new governance arrangements

To ensure accountability to Parliament

Reporting to Parliament and the public

- Corporate plans
- Annual performance reporting, including audited financial statements
- Evaluation results

External audit regime

- Broad-scope audit reported to Parliament

Ministerial oversight

- Strategic monitoring mechanisms, including compliance audit
- Procedures to effectively deal with non-performance

To establish effective accountability mechanisms

- Clear roles and responsibilities
- Performance expectations that are balanced with capabilities
- Specific performance expectations
- Provisions for independent evaluation
- Dispute resolution mechanisms

To ensure adequate transparency

- Public access to information
- Communicating of information on key policies and decisions

To protect public sector values and ethics

- Consideration of relevant federal policies
- Responsiveness to public concerns
- Public sector codes of conduct and conflict-of-interest provisions
- Fairness in program delivery

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Exhibit 1.3 Do the new foundations include essential elements of accountability to Parliament?

Provision for	Genome Canada	Canadian Foundation for Climate and Atmospheric Sciences	Foundation for Sustainable Development Technology in Canada	Green Municipal Investment Fund and Green Municipal Enabling Fund	Canada Health Infoway Inc.
Reporting to Parliament and the public					
Reporting expected performance to Parliament (for example, in corporate plan)	● (in annual report)	○	● (in annual report)	○	○
Reporting performance results to Parliament	●	○	●	●	○
Reporting performance results to the public	●	●	●	●	●
Reporting audited financial statements to Parliament	●	○	●	○	○
Reporting evaluation results to Parliament	●	○	●	○	○
External audit regime					
Financial, compliance, and value-for-money audits	Financial audits only	Financial audits only	Financial audits only	Financial audits only	Financial audits only
Ministerial oversight					
Strategic monitoring	● (voluntary)	○	● (voluntary)	● (voluntary)	○
Ministerial direction and action	○	○	○	○	○
Departmental audit and evaluation	○	○	● (evaluation)	● (evaluation)	○
Termination	○	● (recovery of funds)	● (recovery of funds)	○	○

● Yes ○ No

1.43 None of the arrangements have provisions for tabling a corporate plan in Parliament. More than half provide for producing annual, corporate, or strategic plans but not for making them public. However, three foundations—Genome Canada, the Foundation for Sustainable Development Technology in Canada, and the Canada Millennium Scholarship Foundation—provide for including information on the next year's plans in their annual reports that are tabled in Parliament. Canada Health Infoway Inc. is different in that it is required to take into account the Blueprint and Tactical Plan for a Pan-Canadian Health Infostructure, a document developed by a federal–provincial–territorial advisory committee and available on the Health Canada Web site.

1.44 Many arrangements provide for independent evaluation at the end of the federal funding period as well as at the midpoint. However, only two of the new arrangements we examined, Genome Canada and the Foundation for Sustainable Development Technology in Canada, have provisions for the sponsoring minister to table evaluation findings in Parliament, in the annual report.

1.45 We examined the Estimates documents of the sponsoring departments (2001–02 reports on plans and priorities and 2001 departmental performance reports) to see what information they provide on the new delegated arrangements. In every case, we found that the arrangements were mentioned in departmental performance reports, but information on their performance was not always provided. Our findings are shown in Exhibit 1.4.

1.46 Noteworthy was Industry Canada: its 2001–02 *Report on Plans and Priorities* provided information on Genome Canada's expected results, and its 2001 *Performance Report* provided information on the arrangement's performance. We noted that Natural Resources Canada and Environment Canada did not provide the performance information called for in their memorandum of understanding on the Green Municipal Funds. They informed us that since no funded projects were yet complete, not enough information was available. Reporting on other arrangements in departmental performance reports was limited by the fact that the arrangements (Canada Health Infoway Inc. and the Foundation for Sustainable Development Technology in Canada) had not yet started operations in the reporting period.

1.47 Overall, we found that Parliament was receiving some useful information on most new arrangements, whether in sponsoring departments' Estimates documents or the arrangements' own annual reports. Sponsoring departments referred in their Estimates documents to the Web sites of most arrangements, which appeared as a "hot link" in the electronic version. Such references improve reporting to Parliament. However, there is still considerable room for improvement in the performance information provided.

1.48 Of the delegated arrangements we audited in 1999, only one has improved its reporting to Parliament. The annual report of the Canada Foundation for Innovation is now tabled in Parliament; before, only audited financial statements were tabled.

1.49 **Recommendation.** To ensure adequate reporting to Parliament on delegated arrangements, sponsoring ministers should table the following in a timely manner:

- multi-year plans;
- the findings of evaluations; and
- annual reports on what has been accomplished that include audited financial statements.

These documents should be referenced in the sponsoring departments' Estimates documents.

Inadequate external audit regime

1.50 We expected all delegated arrangements to be subject to broad-scope, independent audit, including financial, compliance, and value-for-money audit. All of the delegated arrangements we examined have provisions for financial statements and the report of an external auditor appointed by the

Exhibit 1.4 Performance information on delegated arrangements in Estimates documents

[illegible]	[illegible]	[illegible]
Environment Canada		
Foundation for Sustainable Development Technology in Canada	●	Too early
Canadian Foundation for Climate and Atmospheric Sciences	○	○
Green Municipal Enabling Fund Green Municipal Investment Fund	○	◒
Health Canada		
Canada Health Infoway Inc.	●	Too early
Industry Canada		
Genome Canada	◓	◒
Natural Resources Canada		
Foundation for Sustainable Development Technology in Canada	●	Too early
Green Municipal Enabling Fund Green Municipal Investment Fund	○	○

* In each case, the arrangement was mentioned in the sponsoring department's Performance Report; "too early" means the arrangement had not been in operation long enough to have performance information.

● Overall performance expectations reported

◓ More specific information reported on expected results

◒ Some information reported on results

○ No performance expectations or information on results reported

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Arrangement	2001–02 Report on Plans and Priorities	2001 Performance Report*
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Health Canada		
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Genome Canada	◓	◒
Natural Resources Canada		
Foundation for Sustainable Development Technology in Canada	●	Too early
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● Overall performance expectations reported

◓ More specific information reported on expected results

◒ Some information reported on results

○ No performance expectations or information on results reported board—the traditional audit function found in any private sector organization. The government does not appoint the external auditor. Auditors' reports on corporate financial statements provide an opinion on whether the financial statements present fairly the corporation's financial position and financial operating results. Such audits do not address explicitly the traditional public and parliamentary concerns about propriety, value for money, compliance with law, and the adequacy of internal controls.

1.51 The Auditor General has authority to scrutinize the roles and responsibilities of sponsoring departments in developing up-front arrangements for the payment of federal money to delegated arrangements, through their funding agreements. But she has no authority to audit the operations of the delegated arrangements after the public money has been transferred. The Auditor General is unable to provide Parliament and the public with any assurance on the prudence and probity of the subsequent use of these funds or authorities for public policy objectives, even when very large sums of federal money are involved.

1.52 Furthermore, in a number of delegated arrangements, money is transferred as a lump sum many years before its ultimate intended recipients will need funding. In receiving lump sum transfers, foundations are effectively exempted from the kind of periodic scrutiny by Parliament that occurs when funds are appropriated annually. These are not conditional payments that ministers can be called upon to account for and sponsoring departments can audit. Most delegated arrangements are not subject to any audit by the sponsoring department.

1.53 The creation of more foundations and the transfer to them of very large amounts of public money raise increasing concerns about the lack of adequate means for parliamentary scrutiny. In order to hold the government accountable for federal public policy delivered by delegated arrangements, Parliament needs information and assurance from broad-scope, independent audit that covers compliance with authorities, propriety, value for money, and verification of performance information. With some exceptions, the Auditor General is well placed to conduct this audit work. Where delegated arrangements involve provincial or territorial governments or where the federal government is not a major contributor, other audit arrangements may be more appropriate.

1.54 **Recommendation.** The federal government should ensure that adequate mechanisms are in place for broad-scope audit of all delegated arrangements. The Auditor General should be appointed as the external auditor of foundations, with a few exceptions.

Lack of ministerial oversight

1.55 We expected to see provisions and plans for effective mechanisms that would allow sponsoring ministers and their departments to collect more strategic information about the arrangements than annual reports provide. We call this strategic monitoring (Exhibit 1.5). Ministers then must be able to use the information to make adjustments if an arrangement is not performing as expected. The government also should have the power to intervene in exceptional cases where the public purpose of the arrangement is clearly not met, or where circumstances have changed considerably since the creation of the arrangement. In extreme cases, the minister should be able to terminate the arrangement and recover any remaining federal funds.

1.56 We expected that ministerial oversight of an arrangement would include compliance audits at the discretion of the sponsoring department. Where delegated arrangements receive federal funding through contribution payments, the Treasury Board's transfer payment policy requires that the contribution agreement include the minister's right to conduct an audit, even though that right may not always be exercised. We note that the same policy also requires "provision for appropriate reviews, program evaluation and audits" in agreements with arrangements that distribute the contribution payments to others. A good practice is to make provision for sponsoring departments to undertake evaluations of the arrangements. Two of the new arrangements had such provisions.

1.57 If federal representatives or appointees on boards of directors are to be involved in strategic monitoring, we expect that sponsoring departments would clearly define their roles when they are appointed and would give them appropriate guidance.

Exhibit 1.5 Elements of strategic monitoring

Strategic monitoring requires enough information to know when things go seriously wrong, such as major problems in the stewardship of public funds or failure to meet public objectives. The nature of the monitoring depends on the nature of the delegated arrangement and the risks involved.

In our view, the government's monitoring of an arm's-length delegated arrangement is adequate when it has timely information to answer such questions as these:

- Is there reasonable assurance that stewardship of public money is sound?
- Are the terms and conditions of the funding agreement generally respected?
- Is the arrangement achieving the intended public results?
- Are the programs and activities of the delegated arrangement consistent and co-ordinated adequately with related federal programs and activities?

Some of this information is probably needed only annually and could be obtained from readily available documents produced by the arrangement. Other information, however, may need to be more timely.

Departments have a number of ways they can gather this information:

- Undertake their own compliance audits, studies, reviews, and evaluations.
- Discuss information needs with directors and the chief executive officer of the arrangement.
- Review documents produced by the arrangement, such as annual reports, business plans, financial statements, specific reports and ad hoc studies, reviews, and evaluations.
- Get feedback from federally appointed board directors and members.

Based on the case at hand and the information they need, departments can then develop an effective plan for strategic monitoring of arrangements in their portfolios.

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Based on the case at hand and the information they need, departments can then develop an effective plan for strategic monitoring of arrangements in their portfolios.

1.58 **Inadequate mechanisms for correction.** We did not find adequate provision for departmental direction or corrective action in any of the new arrangements we audited. With the exception of the Canadian Adaptation and Rural Development Fund program, we saw no improvement in those we followed up from 1999. The means available to the federal government to make adjustments tend to be formal and inflexible. Arrangements created by legislation are subject to amendment, although the process can be cumbersome. If the agreement is breached, the government may pursue a legal remedy but that, too, is often lengthy and expensive. To adjust other arrangements, the federal government is limited to reopening the funding agreements with the mutual consent of the parties.

1.59 Since our 1999 audit, three delegated arrangements have provided for compliance audit, including one foundation, the Canadian Health Services Research Foundation. Apart from requiring audited financial statements, however, none of the new foundations has provided for compliance audit.

1.60 Provisions for the ministers to terminate the arrangement and recover federal funds are weak; only two of the new arrangements have them. The minister can recover unspent funds from the Foundation for Sustainable Development Technology in Canada if it violates the funding agreement by, for example, providing misleading information to the government. And if the Canadian Foundation for Climate and Atmospheric Sciences uses its federal money for purposes other than those stipulated in the funding agreement, the minister can require partial or full repayment.

1.61 Four arrangements we audited in 1999 provide for the disbursement of federal money and assets if they terminate or wind down: the St. Lawrence Seaway Management Corporation, the Canada Millennium Scholarship Foundation, the Canadian Institute for Health Information (in part), and the Canada Foundation for Innovation. The Canada Millennium Scholarship Foundation and the Canada Foundation for Innovation provide for remaining funds to be distributed to, respectively, eligible public institutions and eligible grant recipients. However, of the portion of its funding that the Canadian Institute for Health Information receives through contributions, the government is to recover any unspent funds and repayment of any funds not spent in accordance with the agreement.

1.62 **Recommendation.** The federal government should ensure that an adjustment mechanism is in place that allows sponsoring ministers to intervene in a delegated arrangement in the exceptional case where the arrangement is clearly not meeting its public purpose or where circumstances have changed considerably since its creation.

1.63 **Recommendation.** The federal government should ensure that provision is made to allow sponsoring departments to undertake compliance audits of delegated arrangements.

1.64 **Recommendation.** In the event of the winding up or termination of any delegated arrangement, the federal government should recover unspent federal funds.

Federal appointees to boards of directors—unclear roles and responsibilities

1.65 Sponsoring departments might rely on federal officials appointed to boards of directors and similar decision-making bodies to carry out oversight responsibilities. We interviewed a number of these federal appointees (Exhibit 1.6). Our findings raise concerns about the guidance given to these officials.

1.66 The legal framework used for funds and foundations makes it difficult for federal appointees to function in the dual role of public appointee and member of the board of a private corporation. There is a potential conflict

Exhibit 1.6 The role and responsibilities of federal appointees to boards of directors

We interviewed a number of federal appointees about how their responsibilities were defined. We asked about a potential conflict of duties and loyalties between their role as public officials and their role as corporate directors legally required to serve the best interests of the arrangement. We also wanted to know what had been done to prepare them for their role on this unique kind of private sector board.

We interviewed seven federal appointees serving on the boards and other key decision-making bodies of three new arrangements. We did not interview federal appointees serving on the boards of two arrangements that were not in operation at the time of our audit, Canada Health Infoway Inc. and the Foundation for Sustainable Development Technology in Canada.

Federal appointees told us they relied on available documentation to define their roles and responsibilities, such as funding agreements and by-laws. The documentation identified some specific areas of responsibility:

- Providing strategic, high-level direction and advice to the corporation.
- Avoiding duplication with other federal programs, using their detailed knowledge of those programs.
- Making sure the arrangement is discharging its responsibilities according to agreements with the federal government.
- Reviewing and approving project funding.

As for guidance, a few appointees attended general briefing sessions with the sponsoring department and/or with the arrangement. However, these sessions addressed the board's general aims and responsibilities rather than the appointees' specific responsibilities. Most federal appointees confirmed that performance expectations had not been identified for them. In particular, a role in voicing the interests or concerns of the federal government was not defined. However, some federal appointees considered that they had an obligation to do so.

Most of the federal appointees told us they were not responsible for reporting back to senior officials of sponsoring departments or to the minister on the activities or accomplishments of the arrangements. However, two officials did say they report back on the arrangement's general operations. In addition, two said that federal appointees had a special responsibility to ensure the proper management of public money.

We received a variety of answers on what should be done if the arrangement "goes off track." One view was that if significant problems came to the attention of federal appointees, they were obligated to report back to departmental officials. Some cited an obligation to actively ensure that the arrangement stays on track. And others said that going off the track would be difficult to detect in its initial stages, as the board is not involved in daily operations.

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between the duties of oversight on the federal government's behalf and the statutory duty of board members to act in the corporation's best interests. The officials we interviewed recognized the possibility of such a conflict but generally did not see it as a significant problem.

1.67 Sponsoring departments provided very little guidance to federal officials and others appointed to boards. In some cases, their involvement consisted of giving the appointees information such as funding agreements, general terms of reference for the arrangements, and conflict-of-interest guidelines.

1.68 The Privy Council Office is involved in machinery-of-government issues and provides advice to Cabinet on federal appointments. In our view, it is well placed to give departments guidance to ensure that they clearly define the roles and responsibilities of federal appointees and that appointees are adequately prepared to assume their responsibilities.

1.69 **Recommendation.** The Privy Council Office should ensure that departments fully define the roles and responsibilities of federal appointees to boards of delegated arrangements. The federal government should resolve the issue of the potential conflict of duties.

Other elements of the governing framework need attention

1.70 In addition to the essential requirements for accountability to Parliament, we examined other features of the governing framework, namely, adequate transparency and the protection of public sector values and ethics.

1.71 Sponsoring departments of the arrangements we audited in 1999 gave us an update on the changes they had made to the governing framework in response to our recommendations. We expected that the government would look for opportunities to improve the governing framework in delegated arrangements, for example, before providing additional federal money.

Ensuring adequate transparency—a mixed record

1.72 Delegated arrangements generally have made available to the public a wide range of information about their operations, often on their Web sites. Many have adopted a communications strategy to make the public and stakeholders aware of their accomplishments and other key information. For example, foundations that redistribute public funds have released information on eligibility criteria and on the application process.

1.73 However, few arrangements have set up a regime equivalent to federal legislation on access to information. Only one of the new arrangements did so voluntarily, the Canadian Foundation for Climate and Atmospheric Sciences. Among the arrangements we examined in 1999, the federal regime for access to information applied to two, and only in part: the Canadian Television Fund and the Canadian Adaptation and Rural Development Fund. The Canadian Health Services Research Foundation and the Canada Foundation for

Innovation applied a comparable policy on access, voluntarily and on a case-by-case basis. While these arrangements have maintained their provisions for access, none of the others have made improvements.

Protecting public sector values and ethics

1.74 We expected that those who manage and redistribute public resources for a public purpose would exercise a special duty of care for the proper, prudent, and productive use of those resources. They must meet high standards of stewardship and accountability. Good governance in the public sector also includes the values of honesty, openness, fairness, responsiveness, and accessibility. In the new arrangements we audited, we looked for provisions and practices that promote those values.

1.75 We selected a number of features of the governing framework to examine the way public sector values and ethics are protected in delegated arrangements. We focussed on provisions that ensure consideration of relevant federal policies, responsiveness to citizens' concerns, and adherence to codes of conduct and guidelines on conflict of interest.

1.76 **Relevant federal policies applied.** We found that most delegated arrangements followed the applicable federal policies, for example, providing services in both official languages and meeting the requirement for environmental assessment. Generally, they also had conflict-of-interest provisions appropriate to the public sector; three arrangements had adopted them since our 1999 audit. However, we found that they had done very little to establish broader codes of conduct that extend beyond conflict-of-interest considerations to public sector values and ethics. Similarly, few arrangements stipulated sanctions for failure to comply with conflict-of-interest provisions or codes of conduct.

1.77 Responsiveness to the public was also weak. Apart from providing for annual public meetings, foundations and other delegated arrangements offered stakeholders and the general public few opportunities to raise concerns and be heard.

1.78 **Ensuring values and ethics.** Our findings raised a broader question: What must sponsoring departments do to engender a culture that reflects public sector values and ethics? When they establish delegated arrangements, sponsoring departments have to find effective ways of ensuring ethical conduct. The legislation governing non-profit corporations does not necessarily require delegated arrangements to observe public sector values and ethics. Sponsoring departments have to ensure that those managing the arrangements are aware of their duty to institute and maintain public sector values and ethics. They need to foster a corporate culture of accountability, one that balances taking risks with protecting the public interest.

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1.79 A good practice that we noted is to make public the salary range of the arrangement's senior officials. The Foundation for Sustainable Development Technology in Canada has provided for such disclosure; the Canada Foundation for Innovation disclosed the annual salary range of senior management in its 2000–01 annual report.

1.80 Sponsoring departments can help to ensure that members, directors, and staff of delegated arrangements understand the conduct that taxpayers expect of them when conducting public business. There is a need to educate staff in public sector values and ethics and ensure that codes of conduct are enforced. Directors must ensure that appropriate policies and systems, conflict-of-interest rules, and controls against fraud and corruption are in place and working effectively. Federal appointees to boards can play a role in this, provided that their responsibilities are defined more clearly. The arrangements have to demonstrate and report to Parliament, as part of good governance, that they have an ethical culture and that their values and ethics initiatives are effective (see Auditor General's October 2000 Report, Chapter 12). As the case of Canadian Blood Services shows (Exhibit 1.7), developing public sector values and ethics is a significant ongoing challenge.

1.81 **Recommendation.** Sponsoring departments should ensure that provision is made for the responsible parties in delegated arrangements to be aware of their duty to institute and maintain public sector values and ethics.

Exhibit 1.7 The challenge of developing public sector values and ethics

The case of Canadian Blood Services

Canadian Blood Services (CBS), a national non-profit corporation established under the *Canada Corporations Act* in 1998, assumed responsibility from the Canadian Red Cross for the blood system in Canada (except in Quebec, which has its own blood agency). CBS has as its members the ministers of health of all the provinces and territories (except Quebec). It is funded by the provinces and territories and also receives a small research grant from the federal government.

The Krever Commission, which looked into the tainted blood supply of the 1970s and 1980s, stated clearly that stakeholders are entitled to expect a safe blood supply and effective participation in the Canadian blood system. Afterward, a major challenge for CBS was to rebuild public trust. An important means of doing that would be to develop the values of transparency, accountability, openness, fairness, responsiveness, and accessibility. By early 2000, in response to concerns about how far or fast it was going, CBS established the Task Force on Public Participation. The task force raised issues of provision for transparency, access to information, public participation, and appointment of public representatives to the board. The task force found "a genuine desire and effort on the part of CBS to be different" from its predecessor. However, it also found that structural representation and "meaningful participation" of citizens were issues that still had to be resolved. The task force made several recommendations, and CBS has since implemented a number of them.

Source: *Final Report of the Task Force on Public Participation to the Board to Directors of Canadian Blood Services*, November 2000.

The delegated arrangements examined

1.82 We discuss below the governing framework for each new delegated arrangement we examined.

The delegated arrangements examined

Canadian Foundation for Climate and Atmospheric Sciences

The Canadian Foundation for Climate and Atmospheric Sciences was incorporated as a non-profit corporation in February 2000 and began operations that April, when it received $60 million in federal funding for a six-year period. The purpose of the foundation is to fund research in the climate and atmospheric sciences, including research into extreme weather and air quality; its sponsoring department is Environment Canada. In February 2001, the foundation announced that it would provide funding of $3.9 million for 15 research projects in Canadian universities. By October 2001, the foundation had approved additional projects, bringing the total commitment to $25.3 million.

A distinctive feature of the foundation is the role of the Canadian Meteorological and Oceanographic Society (CMOS). This small, learned society, primarily university and government scientists, created the foundation. The foundation is accountable to it and not to the federal government, which provided all of the initial funding. The society appoints 9 of the 12 members of the Board of Trustees; the three others are nominated by the federal government, excluding the chair. The society is responsible for ensuring that the foundation meets the accountability requirements of the funding agreement with the federal government. In our view, that responsibility also lies with Environment Canada, the sponsoring department.

- **Reporting.** In accordance with the funding agreement, an annual report is made public on the foundation's Web site. The first annual report (2000–01) contained information on the results of individual projects but not on the performance of the foundation as a whole. There is no provision for the tabling of the annual report in Parliament. Environment Canada officials told us there are no plans to report expected results and actual results to Parliament in the Department's Estimates documents.
- **Ministerial oversight.** Departmental officials pointed out that the federal representatives on the Board of Trustees play a monitoring role. We note that the responsibilities of trustees include setting and reviewing priorities, implementing the funding agreement, and collaborating with the federal government to co-ordinate program offerings and avoid duplication. These provisions do not make clear what strategic monitoring is required.
- **Audit and evaluation.** There are requirements for a mid-term and a final evaluation by a third party to determine the relevance, success, and cost effectiveness of the program. Evaluations are to be reported to the foundation and CMOS (which is responsible for oversight) and provided to the federal government; there is no provision for Environment Canada to undertake an evaluation. The audit regime requires audited financial statements but not compliance or value-for-money audit. A mechanism exists that allows the federal government to require repayment of all or part of the public funds allocated to the foundation, if it or the society fails to live up to the terms of funding agreement.
- **Transparency.** The foundation has provided for public access to information and for communication of key information. Although not subject to the federal *Access to Information Act*, the foundation voluntarily adopted equivalent practices in its guidelines to applicants for research funds. The annual report and a range of material on the application process are posted on the foundation's Web site, as the funding agreement requires. Also posted on the Web site is additional key information that includes the funding agreement, by-laws, and planning documents.
- **Values and ethics to protect the public interest.** In accordance with the funding agreement, the foundation adopted a code of conduct, including conflict-of-interest provisions. The foundation has agreed to comply with the spirit of federal policies, including those on environmental assessment and official languages. There are no mechanisms for responsiveness to citizens or stakeholders, beyond the right of appeal for rejected applicants.

Green Municipal Enabling Fund and Green Municipal Investment Fund

The Green Municipal Enabling Fund and the Green Municipal Investment Fund were announced in the 2000 Budget; the sponsoring departments are Natural Resources Canada and Environment Canada. In April 2000, the federal government paid $125 million ($25 million for the Enabling Fund and $100 million for the Investment Fund) to the Federation of Canadian Municipalities, the organization responsible for the funds, and operations began. The December 2001 Budget committed another $125 million for the funds in the same proportions.

The Enabling Fund is to operate for five years. It provides cost-shared grants for feasibility studies to help communities identify their greatest environmental needs, such as energy efficiency. The purpose of the Investment Fund is to help municipal governments leverage investments in environmental projects and to provide grants, loans, and loan guarantees to eligible recipients.

The Federation of Canadian Municipalities (FCM), comprising 1,000 municipal members and 18 provincial and territorial associations, is a non-profit corporation registered under the federal *Lobbyists Registration Act*. Unlike the other delegated arrangements we examined, the funds are not managed by a separate organization. The FCM Board of Directors, formally designated as the decision-making body for the funds, is advised by a 15-member council with five federal appointees. The Council plays a key role, supported by the FCM secretariat.

- **Reporting.** Strategies and objectives are posted on the Web site. A public annual report is required; the first one, for 2000–01, committed to reporting results in the future. To make the

1.79 A good practice that we noted is to make public the salary range of the arrangement's senior officials. The Foundation for Sustainable Development Technology in Canada has provided for such disclosure; the Canada Foundation for Innovation disclosed the annual salary range of senior management in its 2000–01 annual report.

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Exhibit 1.7 The challenge of developing public sector values and ethics

The case of Canadian Blood Services

Canadian Blood Services (CBS), a national non-profit corporation established under the *Canada Corporations Act* in 1998, assumed responsibility from the Canadian Red Cross for the blood system in Canada (except in Quebec, which has its own blood agency). CBS has as its members the ministers of health of all the provinces and territories (except Quebec). It is funded by the provinces and territories and also receives a small research grant from the federal government.

The Krever Commission, which looked into the tainted blood supply of the 1970s and 1980s, stated clearly that stakeholders are entitled to expect a safe blood supply and effective participation in the Canadian blood system. Afterward, a major challenge for CBS was to rebuild public trust. An important means of doing that would be to develop the values of transparency, accountability, openness, fairness, responsiveness, and accessibility. By early 2000, in response to concerns about how far or fast it was going, CBS established the Task Force on Public Participation. The task force raised issues of provision for transparency, access to information, public participation, and appointment of public representatives to the board. The task force found "a genuine desire and effort on the part of CBS to be different" from its predecessor. However, it also found that structural representation and "meaningful participation" of citizens were issues that still had to be resolved. The task force made several recommendations, and CBS has since implemented a number of them.

Source: *Final Report of the Task Force on Public Participation to the Board to Directors of Canadian Blood Services*, November 2000.

The delegated arrangements examined

1.82 We discuss below the governing framework for each new delegated arrangement we examined.

The delegated arrangements examined

Canadian Foundation for Climate and Atmospheric Sciences

The Canadian Foundation for Climate and Atmospheric Sciences was incorporated as a non-profit corporation in February 2000 and began operations that April, when it received $60 million in federal funding for a six-year period. The purpose of the foundation is to fund research in the climate and atmospheric sciences, including research into extreme weather and air quality; its sponsoring department is Environment Canada. In February 2001, the foundation announced that it would provide funding of $3.9 million for 15 research projects in Canadian universities. By October 2001, the foundation had approved additional projects, bringing the total commitment to $25.3 million.

A distinctive feature of the foundation is the role of the Canadian Meteorological and Oceanographic Society (CMOS). This small, learned society, primarily university and government scientists, created the foundation. The foundation is accountable to it and not to the federal government, which provided all of the initial funding. The society appoints 9 of the 12 members of the Board of Trustees; the three others are nominated by the federal government, excluding the chair. The society is responsible for ensuring that the foundation meets the accountability requirements of the funding agreement with the federal government. In our view, that responsibility also lies with Environment Canada, the sponsoring department.

- **Reporting.** In accordance with the funding agreement, an annual report is made public on the foundation's Web site. The first annual report (2000–01) contained information on the results of individual projects but not on the performance of the foundation as a whole. There is no provision for the tabling of the annual report in Parliament. Environment Canada officials told us there are no plans to report expected results and actual results to Parliament in the Department's Estimates documents.
- **Ministerial oversight.** Departmental officials pointed out that the federal representatives on the Board of Trustees play a monitoring role. We note that the responsibilities of trustees include setting and reviewing priorities, implementing the funding agreement, and collaborating with the federal government to co-ordinate program offerings and avoid duplication. These provisions do not make clear what strategic monitoring is required.
- **Audit and evaluation.** There are requirements for a mid-term and a final evaluation by a third party to determine the relevance, success, and cost effectiveness of the program. Evaluations are to be reported to the foundation and CMOS (which is responsible for oversight) and provided to the federal government; there is no provision for Environment Canada to undertake an evaluation. The audit regime requires audited financial statements but not compliance or value-for-money audit. A mechanism exists that allows the federal government to require repayment of all or part of the public funds allocated to the foundation, if it or the society fails to live up to the terms of funding agreement.
- **Transparency.** The foundation has provided for public access to information and for communication of key information. Although not subject to the federal *Access to Information Act*, the foundation voluntarily adopted equivalent practices in its guidelines to applicants for research funds. The annual report and a range of material on the application process are posted on the foundation's Web site, as the funding agreement requires. Also posted on the Web site is additional key information that includes the funding agreement, by-laws, and planning documents.
- **Values and ethics to protect the public interest.** In accordance with the funding agreement, the foundation adopted a code of conduct, including conflict-of-interest provisions. The foundation has agreed to comply with the spirit of federal policies, including those on environmental assessment and official languages. There are no mechanisms for responsiveness to citizens or stakeholders, beyond the right of appeal for rejected applicants.

Green Municipal Enabling Fund and Green Municipal Investment Fund

The Green Municipal Enabling Fund and the Green Municipal Investment Fund were announced in the 2000 Budget; the sponsoring departments are Natural Resources Canada and Environment Canada. In April 2000, the federal government paid $125 million ($25 million for the Enabling Fund and $100 million for the Investment Fund) to the Federation of Canadian Municipalities, the organization responsible for the funds, and operations began. The December 2001 Budget committed another $125 million for the funds in the same proportions.

The Enabling Fund is to operate for five years. It provides cost-shared grants for feasibility studies to help communities identify their greatest environmental needs, such as energy efficiency. The purpose of the Investment Fund is to help municipal governments leverage investments in environmental projects and to provide grants, loans, and loan guarantees to eligible recipients.

The Federation of Canadian Municipalities (FCM), comprising 1,000 municipal members and 18 provincial and territorial associations, is a non-profit corporation registered under the federal *Lobbyists Registration Act*. Unlike the other delegated arrangements we examined, the funds are not managed by a separate organization. The FCM Board of Directors, formally designated as the decision-making body for the funds, is advised by a 15-member council with five federal appointees. The Council plays a key role, supported by the FCM secretariat.

- **Reporting.** Strategies and objectives are posted on the Web site. A public annual report is required; the first one, for 2000–01, committed to reporting results in the future. To make the funds' achievements clear, however, they also need to report performance expectations; we found that they have not.

- **Ministerial oversight.** Officials of the sponsoring departments said that having departmental representatives on the Green Funds Council had helped to achieve a high level of transparency and scrutiny of the funds' activities. However, there is no provision for the departments to make appropriate changes to the arrangement based on monitoring by their representatives on the Council. The departments also told us they are not in a position to terminate the arrangements in case of non-performance.
- **Audit and evaluation.** The funds provide for evaluation by the sponsoring departments as well as by third parties. However, there is no requirement for compliance and value-for-money audit.
- **Transparency.** Although a communications strategy is partly in place, including the posting of a wide range of information about the funds on the FCM Web site, there are no provisions or practices equivalent to the federal access-to-information regime.
- **Values and ethics to protect the public interest.** Conflict-of-interest guidelines and sanctions for contravening them represent positive steps. However, while the funds comply with the intent of some federal policies, including those on official languages and confidentiality of applicants' information, they do not comply with others. For example, the Green Municipal Funds do not require that all applicants undertake environmental assessments of their projects. Departmental officials pointed out that there is no legal requirement for the assessments. In our view, however, this is an opportunity to do more than follow the letter of the law.

Genome Canada

Incorporated as a non-profit corporation in February 2000, Genome Canada received $160 million from the federal government in March 2000 and another $140 million in April 2001. The federal funding is for an initial period of five years. The sponsoring department is Industry Canada. The government appoints 4 of 14 members of the Board of Directors, including the presidents of the government's research granting councils and the National Research Council.

Genome Canada was created to develop a national strategy for genomics research and provide leading-edge technology to researchers in all related fields, through support for five Genome centres across Canada.

The federal government established Genome Canada as a delegated arrangement to quick-start Canada's participation in this field of large-scale technology projects. Genome Canada is expected to leverage funding from other partners, including provincial governments, the private sector, and national and international foundations.

- **Reporting.** Genome Canada is required to issue an annual report that shows results achieved during the year, future plans, and expected results. The annual report is to be made public and tabled in Parliament; it also highlights each regional Genome Centre and its projects. Industry Canada's Estimates documents contain some performance information.
- **Ministerial oversight.** Industry Canada informed us that it sees its role as not to monitor but to act as a partner in achieving the objectives of the arrangement. It believes that with the involvement of a senior official as an observer on the Board of Directors, it can ensure that the terms of the agreement are met, issues are identified, and progress toward objectives is reported. However, there is no provision for the Department to take corrective action if the arrangement should go off track.
- **Audit and evaluation.** The annual report includes audited financial statements, but there is no requirement for compliance or value-for-money audit. Provision is made for independent evaluation, managed by Genome Canada. Guidelines also call for Genome Canada to monitor and review the performance of the Genome centres. Non-performing centres can be closed and individual projects terminated, after a review.
- **Transparency.** Existing provisions severely limit public access to information. Genome Canada's by-laws state that third parties cannot have access to any confidential information, broadly defined as including any information or documents obtained by directors or officers in the course of their duties.
- **Values and ethics to protect the public interest.** There are provisions for compliance with the intent of some existing federal policies such as official languages requirements. The by-laws include a code of conduct and sanctions for not complying with conflict-of-interest rules. However, we saw no mechanisms for ensuring responsiveness to the public.

Foundation for Sustainable Development Technology in Canada

This foundation was announced in the 2000 Budget and incorporated in March 2001 as a non-profit corporation; it will be continued as the **Canada Foundation for Sustainable Development Technology** by legislation passed in June 2001 (not in force at the time of our audit). As noted in the Auditor General's observations in the Public Accounts, the government provided $50 million in funding to the corporation in April 2001, before the Act was passed. The sponsoring departments are Natural Resources Canada and Environment Canada.

At the time of our audit, the foundation was not yet operating. Its purpose is to fund the development and demonstration of technologies and, in particular, to respond to climate change and protect air quality. The foundation will also foster collaboration among interested parties in the private sector and in academic and non-profit organizations. The federal government appoints 7 of the 15 members of the Board of Directors, including the chair.

Alone among the new arrangements we examined, the foundation was established through specific legislation. The reason for using specific legislation was to provide more transparency and allow direct parliamentary participation in the design of the foundation.

We looked at the proceedings in Parliament to enact the legislation, and we noted parliamentarians' views on accountability and governance. They expressed concern about the need for ministerial accountability, effective parliamentary scrutiny, and adequate audit provisions—including audit by the Auditor General. We share their concern.

- **Reporting.** The provisions for reporting are relatively complete; they include a requirement to present performance information in the annual report tabled in Parliament, and expected results in an initial plan that goes to the government and may be made public. The sponsoring departments have not yet determined what information on the foundation's performance they will present in their Estimates documents.
- **Ministerial oversight.** Although we did not see provisions for strategic monitoring, the sponsoring departments told us that senior officials and interdepartmental committees will be responsible for monitoring practices. In addition, there are some provisions for corrective action: the government can order its own evaluation of the foundation and, in the extreme case that the foundation provides false or misleading information, can require it to return unspent federal funds.
- **Audit and evaluation.** Provisions for midterm and final evaluations are also clear. The audit regime is still a concern because it requires financial audit but not value-for-money or compliance audit. The audit committee of the board is required to establish an internal audit regime, which is a good practice.
- **Transparency.** The foundation is required to operate in an open and transparent way, subject to commercial confidentiality. But we found no provision for access to information that compares with the federal regime.
- **Values and ethics to protect the public interest.** Compliance with some federal policies is required by provisions or is planned in practice, including official languages and environmental assessment requirements. There are also provisions for avoiding conflict of interest. However, other facets of protecting the public interest are weak. There is no provision for a code of conduct beyond the conflict-of-interest provisions or for responsiveness to the public.

Canada Health Infoway Inc.

Following a commitment it made at a First Ministers' meeting in September 2000 and the passage of related legislation, the federal government paid $500 million in March 2001 to Canada Health Infoway Inc. (CHII) to define standards for shared data that would make health information networks compatible. The sponsoring department is Health Canada. The initiative is expected to need significantly more funding.

CHII is a not-for-profit corporation established under the *Canada Corporations Act*, Part II. The corporation's members are the federal, provincial, and territorial deputy ministers of health. The board comprises 11 directors, two of them appointed by the federal Deputy Minister of Health and five appointed by provincial and territorial deputy ministers of health. The members of the corporation elect the four other directors.

CHII is required to take into account the Blueprint and Tactical Plan for a Pan-Canadian Health Infostructure. This is a plan commissioned by the Advisory Committee on Health Infostructure (ACHI), a committee accountable to the deputy ministers of health. The Blueprint and Tactical Plan sets out a plan for implementing the pan-Canadian infostructure to enable health information and communication technologies across Canada to connect. CHII is required to take into account any future amendments to the plan.

At the time of our audit, CHII was not yet operating and we were not able to assess all of its governance and accountability features.

- **Reporting.** There is provision for an annual public report (including audited financial statements) on activities, results, and future objectives but not for its tabling in Parliament. Health Canada's 2001 *Performance Report* refers to CHII.
- **Ministerial oversight.** The overlapping memberships of CHII's board of directors and the ACHI, which commissioned the Blueprint and Tactical Plan, may help to ensure that the blueprint is followed. However, the overlap is circumstantial and may not continue. There is no mechanism for correcting CHII's course should that be necessary or, in the extreme case, for terminating it, short of taking legal action for the return of federal funds.
- **Audit and evaluation.** There is no provision for value-for-money or compliance audit. Evaluation by a third party is required within five years to measure performance in achieving outcomes.
- **Transparency.** At the time of the audit, there was no access-to-information policy equivalent to the federal regime. As CHII is in a start-up phase, there were no communication plans for us to assess.
- **Values and ethics to protect the public interest.** CHII is required to respect key federal legislation and public policies, including working in both official languages; avoiding conflict of interest; supporting a publicly funded health care system consistent with federal legislation; and adhering to federal, provincial, and territorial principles in protecting health information and privacy. There is no provision for a code of conduct for CHII's board of directors or staff. Consultations were held with stakeholders in the development of the Blueprint and Tactical Plan. However, there is no provision for public consultation or feedback on CHII's activities.

Collaborative arrangements—different challenges

1.83 In 1999 we examined 10 collaborative arrangements; in 2001 we followed up on 8 of them. We also examined a major new collaborative arrangement, Infrastructure Canada, which replaced the Canada Infrastructure Works Program. As we have noted, accountability and governance present different challenges for collaborative arrangements and delegated arrangements. Our findings reflect the differences.

Infrastructure Canada—positive improvements

1.84 The Infrastructure Canada initiative builds on the earlier Canada Infrastructure Works Program. We examined it from two perspectives:

- as a new collaborative arrangement, to determine the adequacy of the governing framework; and
- as the successor to a previously audited program, to follow up on our recommendations on governance and design.

We did not examine Infrastructure Canada's operations or project funding.

1.85 **The governing framework has improved.** The Governance and Accountability Framework of Infrastructure Canada is a key difference from the earlier program. The framework is intended to ensure "that both public and parliamentary accountability are secured while establishing clear and comprehensive governance structures; and that program results and their impact on local communities are openly and publicly reported."

1.86 The Governance and Accountability Framework sets out a clear accountability structure for Infrastructure Canada that includes the following:

- the purpose, objectives, and scope of the program;
- the principles that are to govern interactions and transactions across the country;
- the structure for governance, including roles and responsibilities; and
- mechanisms for accountability.

1.87 We compared this framework with what we found in 1999 (Exhibit 1.8), and we noted several improvements:

- **Reporting.** Infrastructure Canada has mechanisms for reporting to Parliament and the public on objectives, intended results, and results achieved.
- **Accountability mechanisms.** There are provisions for value-for-money audit as well as financial and compliance audit. There is also a requirement for corrective action on the observations and recommendations of internal audit.
- **Protection of the public interest.** Infrastructure Canada has adopted procedures for citizen complaint and redress and provided for public consultation by both the national office and a management committee in each province and territory. It also makes specific provision for public sector values, notably adherence to such federal policies as ensuring the availability of services in both official languages and complying with applicable environmental legislation.

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1.88 Infrastructure Canada plans to make public its objectives and its results, primarily on government Web sites and in the Estimates documents. We found that participating departments have already communicated some of this information. Future reporting will be affected by the transfer of responsibilities for Infrastructure Canada to the Deputy Prime Minister and Minister of Infrastructure and Crown Corporations.

Exhibit 1.8 A comparison of the Canada Infrastructure Works Program and Infrastructure Canada

[illegible]	[illegible]	[illegible]
Reporting to Parliament and the public		
Specific performance expectations	○	●
Annual reporting on performance made public	●	●
Annual reporting on performance to Parliament	● (voluntary)	●
Performance information in performance reports	●	●
Financial reporting	●	●
Accountability mechanisms		
Audit regime provisions	● (financial and compliance)	● (financial, compliance, and value-for-money
Evaluation provisions	●	●
Partner dispute resolution mechanisms	○	●
Procedures to deal with non-performance	○	●
Transparency		
Provisions for public access to information	○	●
Provisions to communicate information on key policies and decisions	●	●
Protection of the public interest		
Citizen complaint and redress mechanisms	○	● (voluntary)
Public consultation/feedback mechanisms	○	● (voluntary)
Specific provisions for pertinent public sector values	○	●
Specific provisions on conflict of interest	●	●

● Yes ○ No

1.88 Infrastructure Canada plans to make public its objectives and its results, primarily on government Web sites and in the Estimates documents. We found that participating departments have already communicated some of this information. Future reporting will be affected by the transfer of responsibilities for Infrastructure Canada to the Deputy Prime Minister and Minister of Infrastructure and Crown Corporations.

Exhibit 1.8 A comparison of the Canada Infrastructure Works Program and Infrastructure Canada

Key features	Canada Infrastructure Works Program 1994	Infrastructure Canada 2001
Reporting to Parliament and the public		
Specific performance expectations	○	●
Annual reporting on performance made public	●	●
Annual reporting on performance to Parliament	● (voluntary)	●
Performance information in performance reports	●	●
Financial reporting	●	●
Accountability mechanisms		
Audit regime provisions	● (financial and compliance)	● (financial, compliance, and value-for-money
Evaluation provisions	●	●
Partner dispute resolution mechanisms	○	●
Procedures to deal with non-performance	○	●
Transparency		
Provisions for public access to information	○	●
Provisions to communicate information on key policies and decisions	●	●
Protection of the public interest		
Citizen complaint and redress mechanisms	○	● (voluntary)
Public consultation/feedback mechanisms	○	● (voluntary)
Specific provisions for pertinent public sector values	○	●
Specific provisions on conflict of interest	●	●

● Yes ○ No

1.89 The Treasury Board Secretariat has set up an automated system, the Shared Information and Management System for Infrastructure Canada (SIMSI). The system will structure, store, and manage all information on the initiative; facilitate data manipulation; and support reporting. SIMSI is expected to be the main means of compiling and reporting information on activities, finances, and results. In particular, the system is intended to allow Parliament and the public easy, ongoing access to Web-based information on Infrastructure Canada and on the status of approved projects.

1.90 **Follow-up findings**. In 1999 we reported on the financial and management regime of the Canada Infrastructure Works Program Phase II. We also reported on our follow-up of Phase I and the extent to which the government had acted on our 1996 observations and recommendations. Our 1999 report made several recommendations and the Public Accounts Committee made similar ones (Appendix C).

1.91 In 2001 we reviewed information from the Treasury Board Secretariat on the action the government had taken to respond to our recommendations. Rather than examine improvements at the project level, we looked at Infrastructure Canada's governing framework. We found that it reflects most of our 1999 recommendations, as outlined in Appendix D.

1.92 We identified one area where Infrastructure Canada could have provided more complete direction. The Treasury Board Secretariat has set out a general requirement that the arrangement be managed to control the risks, and it has indicated that risk is an important factor to consider in establishing public–private partnerships. However, the nature of Infrastructure Canada's public–private partnership risks has not been defined or analyzed.

1.93 We found that Infrastructure Canada has incorporated most of the Public Accounts Committee's recommendations on program objectives and design. Where the lessons identified in the Evaluation of Phase 1 of the Canada Infrastructure Works Program are still relevant, it has addressed them.

1.94 Overall, Infrastructure Canada's design is a significant improvement over that of the Canada Infrastructure Works Program, Phase II.

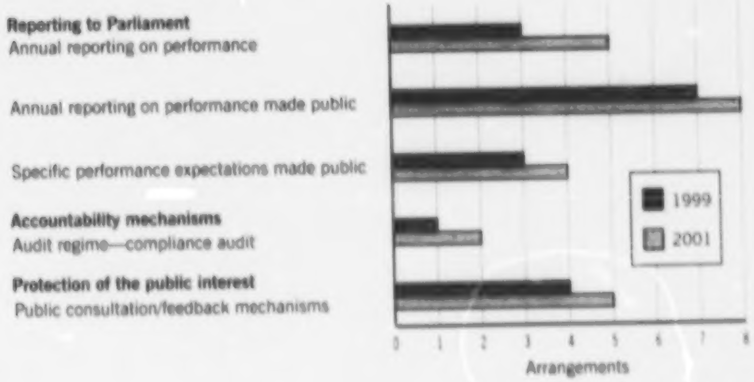
Follow-up on 1999 audit of collaborative arrangements

1.95 We asked sponsoring departments of the collaborative arrangements audited in 1999 to report the changes made in the governing frameworks in response to our recommendations. We asked what practices they had adopted to improve governance and accountability.

1.96 Overall, we found that collaborative arrangements had improved their reporting and their mechanisms for promoting accountability and protecting the public interest (Exhibit 1.9).

1.97 Departments reported some good practices adopted since 1999 in a few collaborative arrangements. For example, Human Resources Development Canada established an internal working group to support liaison between regional offices and provincial and territorial partners administering Labour Market Development Agreements. The working group ensures that regions are kept abreast of issues and concerns, and it provides a forum for discussion. Environment Canada adopted a policy entitled "Working with Others: Policy on Revenue and Collaborative Arrangements," which guides managers in various aspects of collaborative arrangements.

Exhibit 1.9 Governing framework elements that have improved in eight collaborative arrangements audited in 1999



Government-wide issues need attention

Ad hoc changes in parliamentary scrutiny

1.98 An area of major concern is the ad hoc establishment of new delegated and collaborative governance arrangements. As we have already noted, although there has been some discussion of new arrangements by parliamentary committees, the overall impact on the scrutiny process—how Parliament authorizes and oversees public spending—has not been adequately considered.

1.99 Parliament may indeed decide to lessen its scrutiny of certain types of new arrangements, perhaps in exchange for more transparent reporting to the public. However, these changes should be made after an informed debate in Parliament on their merits. We recommended in 1999 that the government seek the views of Parliament and the public on how to reconcile new governance arrangements with accountability to Parliament. There has been no progress on this recommendation (Appendix D).

1.100 Given that the government continues to provide new funding to foundations and other delegated arrangements announced in recent Budgets, the need for Parliament to consider the issue is now more compelling.

1.101 **Recommendation.** In the current session of Parliament, the government should seek Parliament's views on how delegated arrangements are changing the parliamentary scrutiny process.

A need for central agency leadership

1.102 In 1999 we found a lack of clear direction and guidance from the central agencies to departmental managers, particularly on how to address the elements of accountability and good governance when they set up new governance arrangements. There was no consistent governing framework to ensure that departments balanced the flexibility and efficiency of new arrangements with the need for good governance and accountability to Parliament. Moreover, central agencies were not monitoring or assessing the results of these new forms of program delivery. Trends, successes, and issues in the creation of new arrangements were not tracked or evaluated, nor communicated to managers of existing arrangements or sponsors of new ones. We made recommendations to the Treasury Board Secretariat for action in these areas (Appendix D).

1.103 The central agencies' responsibilities in the creation of new governance arrangements have not changed. The Privy Council Office is involved in machinery-of-government issues. The Department of Finance approves provisions that involve financial commitments by the government. The Treasury Board Secretariat is responsible for advising Treasury Board ministers and government departments on implementing organizational change. It also assists departments in establishing new and innovative forms of program delivery known as alternative service delivery mechanisms, which include new governance arrangements.

1.104 In addition to following up on the action taken to address our 1999 recommendations, in this audit we examined the leadership that central agencies provided in the creation of selected new arrangements.

Treasury Board's new policy is a promising initiative

1.105 We asked Treasury Board officials what action the Secretariat had taken on recommendations addressed to it by our Office and by the Public Accounts Committee; we also asked what leadership and guidance they are providing to departments that sponsor new arrangements.

1.106 The Secretariat's main role in the new arrangements created since 1999 has been to consider departmental submissions to the Treasury Board for funding. In the case of Infrastructure Canada, Secretariat officials played a lead role in developing a governance and accountability framework.

1.107 Since 1999, the Secretariat has focussed on developing a Treasury Board policy intended to ensure better governance, accountability, and reporting relationships for new governance arrangements and other means of alternative service delivery. As our audit was completed, the Policy on Alternative Service Delivery was approved, to take effect from 1 April 2002. The Secretariat consulted with departments and developed a draft policy guide.

1.108 **There are good features in the policy.** Under the policy, all new alternative service delivery initiatives must address key policy issues that reflect the public interest. As part of the approval process, the Treasury Board can require departments to provide answers to questions in the public interest on governance, results achieved, service delivery, and values and ethics. The Board can also require other information, including a measurement and reporting framework. The policy requires "appropriate" ministerial accountability and authority, including reporting to ministers, Parliament, and the public. Overall, these requirements cover most of the elements of the governing framework presented in this chapter.

1.109 **More guidance needed.** The draft policy guide provides some, but often quite limited, guidance on these requirements. We think departments need further guidance, especially on key governance issues. We suggest that this chapter and our work in 1999 provide many of the details of what is appropriate for new governance arrangements.

1.110 **Ensuring that learning takes place is important.** The policy outlines an ongoing role for the Treasury Board and its Secretariat to promote organizational learning across government and assess the impact of new arrangements on service delivery and on overall government performance. The Secretariat needs to make available enough resources and skills to implement this policy successfully and ensure departmental compliance with it.

1.111 In conjunction with the policy, the Secretariat has begun to develop a database intended as an on-line tool for learning across the public service. It plans to include in the database guidance by central agencies, departmental case studies, reports of this Office, and other reference documents. It will also include a variety of tools, guides, and practices from departments and generic templates to support options analysis, decision making, and assessment of alternative service delivery initiatives. However, at the time of our audit the database was not yet ready to use.

1.112 **The transfer payment policy.** The Treasury Board policy on transfer payments applies to federal grant and contribution payments, which are used to fund many of the new governance arrangements. It adds several new requirements for their governance and accountability, in addition to reporting in the Estimates. They include preparing a results-based management and accountability framework to measure and report results; and assessing effectiveness through program evaluations or similar reviews when renewing terms and conditions. These are all requirements we would expect to see reflected in funding agreements.

1.113 We noted that the new foundations that received funds from the federal government were exempt from the transfer payment policy's provisions against making payments in advance of need. We are concerned by this exemption. Large amounts of public money have been provided up front to foundations with limited assurance of proper controls and accountability, and the money will not be spent on grants to the intended recipients for years to come. Advance funding also limits the flexibility of future parliaments and governments to respond to changing circumstances and priorities. In our view, this matter deserves a thorough debate in Parliament before any more public money is transferred to foundations.

1.114 **A need for government-wide evaluation.** We are concerned that the government is using new governance arrangements, and particularly foundations that receive lump-sum grants, as major instruments of public policy without evaluating the appropriateness of that use, what they cost, and how effective they have been. As we reported in 1999, an evaluation is needed.

1.115 **Recommendation.** The Treasury Board Secretariat should ensure that its database on alternative service delivery collects and makes available adequate information on the types and number of new governance arrangements created by federal departments. The database should also provide government managers with information on lessons learned and good practices by arrangements.

1.116 **Recommendation.** The Treasury Board Secretariat should review exemptions to the Treasury Board policy against making payments in advance of need. The findings of this review should be reported to Parliament.

1.117 **Recommendation.** The Treasury Board Secretariat should develop an evaluation framework and undertake, after a suitable interval, a government-wide evaluation of the use of new governance arrangements as instruments of public policy. The results of this evaluation should be reported to Parliament.

The role of the Department of Finance

1.118 In 1999, we noted that the Department of Finance had been involved in the creation of selected new arrangements. In this audit, we found that it was involved in creating the new funds and foundations announced in the 2000 Budget. Officials of sponsoring departments told us that the Department of Finance had played a strong role in key approval processes to put in place the governing framework for the funds and foundations, including the development of funding agreements.

1.119 Officials of the Department of Finance did not agree. They explained that their role in the Budget process included challenging departments' spending of public funds to ensure that it was warranted and that it avoided duplication with other federal programs.

1.120 The timing of the payments to funds and foundations and the fact that they were announced through the Budget dictated a demanding schedule for officials of sponsoring departments to complete all the steps of the approval and funding process. These included making submissions to the Treasury Board and crafting complex funding agreements. In our view, this approach did not allow for full consideration of governance and accountability.

Conclusion

1.121 The government continues to make extensive use of new governance arrangements to deliver public policy. The issues our 1999 audit raised are just as compelling today.

1.122 Although collaborative arrangements require attention, the one new collaborative arrangement we examined, Infrastructure Canada, showed marked improvement in most governance features over the program that preceded it.

1.123 Delegated arrangements present far greater risks to accountability and good governance, particularly in foundations that receive lump sum grants in advance of need. In our view, the government's notion of an arm's-length relationship does not in any way lessen its responsibility for meeting public policy objectives and ensuring good governance. In the approach it used to set up the new foundations we examined, the government failed to meet the essential requirements for accountability to Parliament. Such an approach does not ensure adequate annual reporting to Parliament; it precludes effective ministerial oversight; and it limits the scope of independent external audit to the financial statements of the foundations. In short, it is an organizational design that frustrates the ability of Parliament to scrutinize effectively the use of substantial amounts of public money and authority.

1.124 The Treasury Board has recently adopted a policy that addresses governance and accountability issues, and the Secretariat must now ensure that the policy is implemented successfully. Until now, central agencies and sponsoring departments have not provided the necessary leadership and guidance with respect to a governing framework or made full use of what has been learned. They have not fully implemented many of the recommendations we made in 1999. In the absence of their guidance, good governance and accountability cannot be assured.

1.125 Delegated and collaborative arrangements alike have gaps in the governing framework that they still need to fill. In particular, the delegated arrangements established since our last audit have not put appropriate governing frameworks in place. Sponsoring departments do not have adequate means for strategic monitoring of arrangements, and there is little provision for them to intervene if arrangements depart from their agreed public policy objectives. Provisions to engender public sector values and ethics are weak; so are provisions to ensure that citizens have adequate access to information.

1.126 Parliament requires independent external audit of delegated arrangements that covers all aspects of their operations, including their financial statements, compliance with authority, and achievement of value for money. In our view, all delegated arrangements should be subject to such broad-scope audit and, in particular, Parliament's auditor should be appointed the external auditor of foundations, with a few exceptions.

Treasury Board Secretariat's response. The government recognizes that innovative organizational arrangements for service delivery to Canadians must address Parliament's, the government's, and citizens' needs for openness, transparency, visibility, and accountability for the expenditure of public money and the achievement and reporting of results.

When the government transfers funds to non-government organizations, such as foundations, it makes a very conscious and considered decision that an organization at arm's length from government is in the best position to deliver on the public interest.

It places trust in the expertise, integrity, and professionalism of the foundation's directors and members and their independence from political influence or interference.

These are public decisions, which are fully and properly accounted for in the Estimates and Public Accounts. In addition, some of these arrangements are introduced through legislation and, hence, again subject to parliamentary debate and scrutiny.

The government needs the flexibility to determine, on a case-by-case basis,

- the most appropriate means of ensuring accountability for results, and
- the role of individual ministers and the government in relation to an organization that is designed to be at arm's length from government.

The new Policy on Alternative Service Delivery and the Policy on Transfer Payments strengthen governance and accountability, and they are based on a results management framework that ensures that these arrangements commit to measure and publicly report on results.

These policies will help to shape new governance arrangements and ensure that they address a wide spectrum of public interest issues and deliver sustainable results for Canadians.

About the Audit

Objectives

Our audit had the following objectives:

- To assess whether, in selected new governance arrangements, sponsoring departments have put in place appropriate governing frameworks.
- To assess the extent to which the government, the Treasury Board Secretariat, and sponsoring departments have acted on our recommendations and those of the Standing Committee on Public Accounts and have met the commitments the Secretariat made to the Committee.

Scope

Our audit examined the following:

- The actions taken by the Privy Council Office, the Department of Finance Canada, and the Treasury Board Secretariat in response to our 1999 recommendations on new governance arrangements and to the related recommendations of the Standing Committee on Public Accounts, as well as the commitments the Treasury Board Secretariat made to the Committee on behalf of the government.
- The actions taken by sponsor departments with respect to the new governance arrangements examined in 1999.
- The design and implementation of governing frameworks and accountability regimes in selected new governance arrangements, including five delegated arrangements announced in the 2000 Budget, the new Infrastructure Canada program (a collaborative arrangement), and Canada Health Infoway Inc., announced by first ministers in September 2000.

Criteria

We assessed the arrangements in our case studies against a number of criteria under each audit objective.

For action taken on our recommendations and those of the Public Accounts Committee, we expected the following:

- The Privy Council Office, the Department of Finance, and the Treasury Board Secretariat would take a leadership role in providing guidance; developing best practice; communicating lessons learned for use by departments in creating, monitoring and adjusting their new governance arrangements; and setting out an evaluation framework.
- The government (Privy Council Office and/or the Treasury Board Secretariat) would involve Parliament in developing governing arrangements that involve third parties in delivering federal programs and services.
- Departments with new governance arrangements examined in our 1999 audit would look for opportunities to improve their governing frameworks.
- For the new governance arrangements examined in our 1999 audit, the shortcomings identified in 1999 would be addressed and the elements of the governing framework that were in place in 1999 would be maintained or improved.
- Some good practices would be identified in the setting up and monitoring of new governance arrangements by sponsoring departments.

For arrangements created since 1999, we expected the following:

- The governing frameworks for selected new governance arrangements would appropriately address the elements identified in our 1999 Report, including
  - mechanisms for engendering a culture of accountability, transparency and propriety in arm's-length bodies (ethics infrastructure)
  - appropriate audit regimes for any entity handling public money, including the role of Parliament's auditor
  - appropriate oversight mechanisms for departments to monitor and adjust arrangements

  - the role of federal members on boards of delegated arrangements
- In designing these new delegated arrangements, departments would have
  - undertaken an assessment of the risks faced
  - provided adequate guidance on the elements of good governance

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Appendix A Arrangements examined in this audit

[illegible]	[illegible]	[illegible]
New delegated arrangements audited		
Canadian Foundation for Climate and Atmospheric Sciences Established in 2000	Transfer payment to the foundation Federal funding (Environment Canada)—$60 million (2000 to 2006)	An independent body set up and administered by the Canadian Meteorological and Oceanographic Society. It solicits and accepts grants used to fund scientific research in the university sector on climate change, extreme weather and air quality, enhances understanding of the implications of these scientific areas on human health and the environment, and supports policy in these areas.
Canada Foundation for Sustainable Development Technology Established in 2001 as the **Foundation for Sustainable Development Technology in Canada**	Transfer payment to the foundation Federal funding (Natural Resources Canada and Environment Canada)—$100 million (2001 to 2011)	An arm's-length foundation, established by new federal legislation to provide funding to partners from the private sector and universities for technology development, namely climate change and air quality solutions. The Foundation will complement sustainable development activities of other government departments.
Green Municipal Enabling Fund (GMEF) and Green Municipal Investment Fund (GMIF) Established in 2000	Transfer payment to the foundation Federal funding (Natural Resources Canada, Environment Canada)—$250 million	The Federation of Canadian Municipalities administers these funds. The GMEF provides cost-shared grants for feasibility studies on projects designed to improve air, water, and soil quality. The GMIF provides interest-bearing loans, loan guarantees, and grants that enable recipients to carry out energy and environmental projects in municipal operations.
Genome Canada Established in 2000	Transfer payment to the foundation Federal funding (Industry Canada)—$300 million (2000–01 to 2004–05)	A non-profit corporation that functions as a foundation. It oversees genomics research in five regional centres.
Canada Health Infoway Inc. Established in 2001	Transfer payment to the foundation Federal funding (Health Canada is sponsoring department; payment made by the Department of Finance Canada)—$500 million, though funding period is not clear	A non-profit corporation whose purpose, through collaboration with the public and private sector, is to accelerate the development and adoption of modern systems of information and communication technology in the health sector while ensuring common standards and interoperability.
New collaborative arrangement audited		
Infrastructure Canada Established in 2000	Federal Funding (Treasury Board Secretariat, Indian and Northern Affairs Canada, Industry Canada, Atlantic Canada Opportunities Agency, Canada Economic Development for Quebec Regions, and Western Economic Diversification Canada)—$2.05 billion from 2000–01 to 2005–06	A program designed to improve the physical, cultural, and environmental, infrastructure in Canada. By partnering with other orders of government and the private sector, the Government of Canada plays a key role in strengthening the basic physical infrastructure that underpins the economic activity of rural and urban Canada.

Delegated arrangements followed up		
Canada Millennium Scholarship Foundation Established in 1998	Transfer payment to the foundation Federal funding (Human Resources Development Canada)—$2.5 billion from 1997–98 to 2009–10	An independent body created through the *Budget Implementation Act* of 1998 to manage a federal endowment. It will grant scholarships each year for the next decade.
Canada Foundation for Innovation Established in 1997	Transfer payment to the foundation Federal funding (Industry Canada)—$3.15 billion from 1996–97 to 2002–03	An independent, non-profit corporation created under the *Budget Implementation Act* of 1997 to provide funding to universities, colleges, hospitals, and other not-for-profit institutions to establish necessary research infrastructure.
Canadian Health Services Research Foundation Established in 1997	Transfer payment to the foundation Federal funding (Health Canada)—$126.5 million	A partnership of public and private health sector stakeholders. It operates as an independent, arm's-length, not-for-profit corporation to fund research in health services management and systems.
Canadian Adaptation and Rural Development Fund—Provincial councils Established in 1995 (phase 2 started in 1999)	Funding through a contribution payment Federal funding (Agriculture and Agri-Food Canada)—$25 million annually Note: Although the federal government allocates $60 million annually to the Fund, $25 million is spent directly by the councils, and the balance is directed to national programs.	A program intended to increase the agricultural industry's ability to adapt and become more self-reliant in a changing environment.
Canadian Television Fund Established in 1996	Funding through a contribution payment Federal funding (Department of Canadian Heritage)—$700 million from 1996–97 to 2002–03	An independent non-profit corporation mandated to support Canadian television and film industry production. It incorporated the Cable Production Fund.
Canadian Institute for Health Information Established in 1994	Mixed: transfer payment to the foundation and funding through a contribution payment Federal funding (Health Canada and Statistics Canada)—$205.6 million	An independent, non-profit corporation that develops and maintains Canada's health statistics information system and supports policy, health system management, and public awareness
St. Lawrence Seaway Management Corporation Established in 1998	Distinct payment Federal funding (Transport Canada)—$83 million from 1998–99 to 2000–01	An independent corporation responsible for the management, operation, and maintenance of the St. Lawrence Seaway. It replaces the St. Lawrence Seaway Authority, a Crown corporation.
Collaborative arrangements followed up		
Canada's Model Forest Program (Foothills Model Forest) Established in 1992 (phase 2 started 1997; phase 3 began 1 April 2002 and ends in 2007)	Federal commitment (Natural Resources Canada)—for the Program: $96 million from 1997 to 2002; for the Foothills Model Forest $2.5 million from 1997 to 2002	The Foothills Model Forest, one of 11 model forests, is part of Canada's model forest network. It is a local partnership involving participants from governments, industry, academia, local communities, and environmental groups. They all have an interest in sharing knowledge and developing and applying innovative practices in sustainable forest management.

Canada-Alberta Labour Market Development Agreement Established in 1996	Federal funding (Human Resources Development Canada)—$314 million from 1997–98 to 1999–2000	One of several bilateral arrangements to provide for a stronger provincial role in the design and delivery of labour market development programs and services.
Canada-Wide Accord on Environmental Harmonization Established in 1998	No federal funding	A framework agreement to harmonize environmental programs and policies by co-ordinating action with the provinces and territories and guiding the development of sub-agreements in specific areas. Sub-agreements have been negotiated in areas such as environmental inspection, environmental assessment and Canada-wide standards. Responsible department: Environment Canada
Canadian Industry Program for Energy Conservation Established in 1992 (phase 3 started in 1997)	No federal funding	A voluntary initiative of Canada's manufacturing and mining industries. It promotes the reduction of industrial energy use per unit of production while participating in other efforts to meet Canada's carbon dioxide stabilization objectives. Responsible department: Natural Resources Canada
Loan Investment Fund Program Established in 1995	Federal funding (Western Economic Diversification Canada) —$20 million contributed to financial institutions' loan loss reserve accounts; there is a maximum potential liability from losses of $46 million in funding from 1995 to 2005	A program that shares potential losses from loans to small and medium-sized enterprises with partner financial institutions.
National Child Benefit Established in 1998	Tax expenditure (Human Resources Development Canada, the Canada Customs and Revenue Agency, the Department of Finance, and Indian and Northern Affairs Canada)—$1.94 billion in 2000–01; $2.4 billion in 2001–02	An initiative that provides enhanced federal child benefits for low-income families as well as increased provincial, territorial and First-Nations reinvestments in services and benefits for these families.
Employability Assistance for People With Disabilities Established in 1998	Federal funding (Human Resources Development Canada)—$965 million from 1998–99 to 2002–03	An arrangement that provides for provinces to deliver a range of services in integrating persons with disabilities into the labour force. Funding is shared equally by both federal and provincial/territorial governments.
Health Transition Fund Established in 1997	Federal funding (Health Canada)—$150 million from 1997–98 to 2001–02	An arrangement to encourage innovations leading to a more integrated health care system. It supports pilot and evaluation projects in four priority areas: home care, pharmacare, primary health care, and integrated service delivery.

Appendix B A governing framework

The governing framework that we used to assess new governance arrangements comprises the features essential for accountability to Parliament along with other key elements. It builds on the framework we developed in 1999.

Two principles of parliamentary democracy are the basis for the framework:

- **Parliamentary sovereignty over federal policy.** Whoever holds discretionary authority to spend federal taxpayer money or to execute federal authority must not be exempt from potential scrutiny by Parliament.
- **Stewardship of the public trust.** Any arrangement delivering federal programs and services must respect the public trust, observing public sector values of fairness, impartiality and equity.

Element	Description
To ensure accountability to Parliament	
Reporting to Parliament and the public	
Corporate plans	Plans including objectives, strategies to be pursued, and expected accomplishments should be made public and tabled in Parliament. Provision for an initial corporate plan and an update at least every three years would be reasonable. In collaborative arrangements, this requirement would apply to the federal partners.
Annual performance reporting, including audited financial statements	Timely, appropriate, and credible information on the extent to which the arrangement has accomplished its federal policy objectives and at what cost should be reported to the ministers responsible, Parliament, and the public in an annual report or a departmental performance report, as appropriate.
Evaluation results	The findings from independent evaluations should be tabled in Parliament.
External audit regime	
Broad-scope audit reported to Parliament	In delegated arrangements, the external auditor should carry out attest, compliance, and value-for-money audits. In all cases, audits would be reported to the board of directors, the sponsoring minister, and Parliament. In collaborative arrangements, these external audits should be co-ordinated with other legislative auditors, where other orders of government are involved.
Ministerial oversight	
Strategic monitoring mechanisms, including compliance audit	Strategic monitoring by the sponsoring department should be in place to ensure that timely information is available on stewardship, the results achieved, and overall compliance with terms and conditions.
Procedures to deal with non-performance	Reasonable provisions should be in place to deal with non-performance of the arrangement, and termination, if needed. In delegated arrangements, the government should be able to intervene in the exceptional case where the public purpose of the arrangement is clearly not being met or circumstances have changed considerably since the creation of the arrangement. In the event of termination, or windup for any reason, the federal government should be able to recover any remaining federal moneys.
To establish effective accountability mechanisms	
Clear roles and responsibilities	Whether required in corporate law (*Canada Corporations Act*, Part II), or in the agreement with the federal government, a governance design and structures fully able to meet program objectives and manage operations should accompany the transfer of federal authorities and resources.

Element	Description
Balanced expectations and capacities	Before entering into new governance arrangements, departments should carry out an assessment of prospective partners' (or entity's) ability to deliver their part of the arrangement, so that performance expectations are balanced with capacity to deliver.
Specific performance expectations	Performance expectations should be clear, concrete, and focussed on outcomes. They should be included in the corporate plan.
Independent evaluation provisions	Evaluation studies by independent parties should be required at mid-term and at the end of the federal funding period and be reported to Parliament and the public.
Dispute resolution mechanisms	Formal mechanisms and guidance for resolving any disputes among partners (collaborative) and between the arrangement and the sponsoring department (delegated) should be established. This mechanism should add to the provisions of the *Arbitration Act* found in many funding agreements.
To ensure adequate transparency	
Provision for public access to information	Arrangements should be as open as possible regarding access to information on the agreements, objectives, activities, and achievements dealing with the federal purpose. Appropriate provision should be made for legitimate concerns of personal privacy, commercial confidence, and intergovernmental negotiations.
Provision for communicating key information	Pertinent information should be communicated to the public and stakeholders. Without direct ministerial control, a provision needs to be made in delegated arrangements for enhanced transparency, including access to corporate information that is relevant to the delivery of federal public functions.
To protect public sector values and ethics	
Consideration of relevant federal policies, such as • environmental assessment • official languages	Canadians expect those who use federal authority to respect the public interest, the rule of law, federal standards and policies (like providing services in English and French where demographics warrant) and values (like privacy and protection of the environment).
Responsiveness	As the delivery agent for a public policy program, the arrangement has an obligation to be responsive and to pay attention to citizens' concerns. The proper procedures should be put in place.
Provision for • public sector codes of conduct • conflict of interest	Canadians expect federal authority to be exercised with fairness, impartiality, equity, honesty, prudence, and openness. They expect those who use federal authority to respect the public good and the rule of law. Arrangements should instil a notion of public trust and include policies to promote a corporate culture with pertinent public sector values and effective conflict-of-interest practices. There should be sanctions for breaches of these rules.
Provision for fairness in program delivery	Most delegated arrangements are foundations that provide grants, contributions, or loans to eligible recipients. They should have procedures in place to ensure fairness in the decision-making process for the payment of these benefits, such as a peer review. In collaborative arrangements, agreements among the partners need to address fairness and equity in shared program delivery.

Appendix C Recommendations of the Standing Committee on Public Accounts and the government's response

Eleventh Report of the Standing Committee on Public Accounts

The Committee's Eleventh Report dealt with our 1999 Report, Chapter 17, Canada Infrastructure Works Program: Phase II and Follow-up of Phase I Audit.

Focus	Committee's recommendations	Government's response
Compliance audit	Provide for completion of compliance audits prior to the release of final payments.	All Infrastructure Canada agreements incorporate an audit framework.
Lessons learned	Incorporate lessons learned from Phase I into the design of the program's Phase III.	Some lessons learned from the evaluation of Phase I were used in the design of the new program, but it is difficult considering the significant differences between the two programs.
Evaluation	Include in Phase III a process of rigorous program evaluation.	The evaluations will be the responsibility of the National Office for Infrastructure Canada.
Program substitution	Build into the program safeguards against program substitution.	A project proponent must demonstrate that its proposal contributes to the program objective and that federal financial support is required.
Job creation	Specify the types of jobs created and the methods used to calculate the numbers.	Since job creation is not a central objective of Phase III, the response does not commit to follow this recommendation.
Response to the Auditor General's recommendations in the 1999 Report, Chapter 17	Submit to the Public Accounts Committee a detailed action plan in response to Auditor General's recommendations.	The Auditor General's Chapter 17 (1999) recommendations and the Treasury Board Secretariat's responses are repeated along with further information concerning the applicability of the recommendations to Infrastructure Canada.

Thirteenth Report of the Standing Committee on Public Accounts

The Committee's Thirteenth Report dealt with our 1999 Report, Chapter 23, Involving Others in Governing Accountability at Risk and Chapter 24, The Canadian Adaptation and Rural Development Fund: An Example of Involving Others in Governing.

Issue	Committee's recommendations	Government's response
Governance framework	The Treasury Board Secretariat should develop a governance framework and provide guidance and encouragement to departments when they establish and review the frameworks for their own governance arrangements. Departments should review the frameworks of their new governance frameworks and regularly report to Parliament.	The Treasury Board has approved a new policy for alternative service delivery (ASD), which is intended to strengthen the management board role of Treasury Board ministers in overseeing significant ASD initiatives and their ongoing review and adjustment. The government is committed to improved reporting to Parliament on all forms of ASD, including new governance arrangements.
Keeping track of new governance arrangements	The Treasury Board Secretariat should develop and maintain databases of new arrangements, including funds committed and those with multiple agreements. This information is to be reported to Parliament.	The government is committed to ensuring that the public service learns from ASD initiatives, through oversight of results. This learning will be made available to Parliament, citizens and departments in the new ASD Practice Database through the Secretariat's Service and Innovation Web site, currently under development.

Appendix D Status of our 1999 recommendations

Canada Infrastructure Works Program: Phase II and Follow-up of Phase I Audit (1999 Report, Chapter 17)

[illegible]	[illegible]	[illegible]
In future programs of this type, the project approval process should be based on a more streamlined approach, with delegation of authority for approvals based on risk and level of expenditure (paragraph 17.42).	◒	The approval process has been streamlined, but the risk management framework is incomplete.
In future programs of this type, the government should ensure that project selection criteria are clearly defined and that persuasive information and analyses are available and have been assessed to support recommendations for project approval (17.50).	●	
In future programs of this type, the government should clearly define the coverage of the term "infrastructure." If that coverage allows for support of projects involving private sector partnerships and other private sector linkages, the government should ensure that program guidelines specifically address related implications (17.56).	◒	The coverage of "infrastructure" has been clearly defined. However, the guidelines for private sector partnerships do not adequately address related implications.
In future programs of this type, the government should ensure that there are safeguards to limit the substitution of program expenditures for expenditures that would otherwise have been undertaken by the programs' partners. (17.65)	◓	The Treasury Board Secretariat indicated that substitution is not occurring. Clear funding criteria have been established. They are intended to accelerate infrastructure development that may have already been planned.
In its *Performance Report*, the Treasury Board Secretariat should provide Parliament with information on the employment effects of the Canada Infrastructure Works Program that clearly sets out its sources and limitations (17.72).	◒	Infrastructure Canada's objectives do not include short-term job creation. It is tracking measurable benefits at the project level. However, information on projects was not available for the 2001 *Performance Report*.
In future programs of this type, the government should ensure that agreements among partners make adequate provision for rigorous and timely compliance audits. Such provisions should clearly assign responsibilities among partners, and specify the coverage, timing, and reporting of audits, along with resource levels to be allocated to the compliance audit function (17.81).	●	
In future programs of this type, the government should ensure that project proposals are assessed to provide an adequate level of assurance with respect to technical feasibility and financial requirements (17.87).	●	
In future programs of this type, the government should ensure that • environmental assessments are completed early enough to be taken into account in the project planning and approval process; • necessary mitigation measures are clearly identified; and • a system for obtaining assurance of the implementation of mitigation measures is in place (17.94).	●	

● Fully addressed ◓ Satisfactory progress ◒ Some progress ○ Unsatisfactory progress

F2

Involving Others in Governing: Accountability at Risk (1999 Report, Chapter 23)

[illegible]	[illegible]	[illegible]
The Treasury Board Secretariat should clearly identify and communicate the essential elements of an effective governing framework for new governance arrangements and provide departments with consistent guidance on its use when they design and implement new arrangements. The framework should provide for • appropriate reporting to Parliament and the public on the extent to which the arrangement has achieved its federal public policy purpose and on the expenditure and investment of federal moneys and the stewardship of federal assets; • effective accountability mechanisms to ensure that adequate and appropriate evaluation and audit regimes are established; • adequate transparency of important decisions on the management and operations of the arrangement; and • protection of the public interest so that delivery of the federal objective adheres to essential and traditional values of public sector administration (paragraph 23.46).	◓	As our audit was completed, the Treasury Board Secretariat approved a policy that covers most of the elements of the governing framework presented in this chapter. However, until the policy has been promulgated, we are unable to assess whether it communicates the essential elements of the governing framework or whether the Secretariat has provided consistent guidance to departments.
The Treasury Board Secretariat should		
• collect and make available more complete information on the types and extent of use of new governance arrangements that federal departments and agencies create;	○	
• develop an evaluation framework and, after an appropriate period, evaluate the use of new governance arrangements as tools of public policy. The Secretariat should communicate the findings government-wide and report a summary of the evaluation to Parliament; and	○	
• gather information on lessons learned and good practices identified in new governance arrangements, and communicate this information to government managers (23.51).	◒	At the time of our audit, work on a partial response, through a database was incomplete.
Departments sponsoring collaborative arrangements should provide for the reporting of timely, appropriate, and credible information to Parliament and the public on the extent to which the arrangements have accomplished their federal policy objectives, and at what cost. They should ensure that • expectations about what the arrangement and each of its partners are to accomplish are stated in clear and concrete terms; and • agreement is reached on the collection and sharing of reliable and compatible data (23.64).	◒	Some departments are reporting performance information to Parliament, but generally in an ad hoc manner
Before entering into collaborative arrangements, departments should carry out an assessment of prospective partners' ability to deliver their part of the arrangements. Departments should also ensure that the arrangements include dispute resolution mechanisms and identify the actions that can be taken in the event that partners in the arrangement do not fulfill their responsibilities (23.70).	Not assessed	
Sponsoring departments, before entering collaborative arrangements, should agree with their partners on appropriate evaluation plans and an external audit regime that includes, as appropriate, financial, compliance, and value-for-money audits of the arrangements, co-ordinated as required with the legislative audit offices of the governments involved (23.74).	◒	In the new collaborative arrangement of Infrastructure Canada that we examined, provision is made for evaluation and financial, compliance, and value-for-money audits. However, the audits are not co-ordinated with legislative audit offices.

● Fully addressed ◓ Satisfactory progress ◒ Some progress ○ Unsatisfactory progress

[illegible]	[illegible]	[illegible]
Departments entering into collaborative arrangements, especially with partners in the private or the voluntary sector, should ensure that there are clear provisions for transparency among the partners in the arrangement (23.79).	◒	The collaborative cases examined in the audit did not make adequate provision for transparency, with the exception of Infrastructure Canada.
Departments entering into collaborative arrangements, especially with partners in the private or the voluntary sector, should ensure that the arrangements make clear provision for protection of the public interest and, in particular, for procedures to deal with stakeholder and public input and citizen grievances (23.84).	◒	A few collaborative arrangements have made improvements in this area.
When creating delegated arrangements, sponsoring departments should clearly specify what the arrangements are to achieve, identifying measurable outcomes and timetables as well as concrete outputs. The departments should ensure that the capacity exists to measure the extent to which objectives have been achieved under the arrangement (23.94).	◒	A few delegated arrangements have made improvements in this area.
Sponsoring departments should ensure that timely and credible information on the performance of their delegated arrangements and, where appropriate, audited financial statements of the entities involved are provided to Parliament and the public (23.97).	◓	Most delegated arrangements have put provisions in place.
Sponsoring departments should ensure that, where appropriate, the design of delegated arrangements provides for		
• formal mechanisms and guidance to resolve disputes with partners;	◒	Half of the delegated arrangements have put related provisions in place.
• means to deal with non-performance and termination of the arrangement;	○	
• periodic program evaluations, the results of which are reported through ministers to Parliament;	◓	Most arrangements make provision for evaluations, but few report them to Parliament.
• consideration of value-for-money audits; and	○	
• independent assessment of the fairness and reliability of the performance information tabled in Parliament (23.106).	○	
When creating delegated arrangements, sponsoring departments should provide for reasonable standards of disclosure in the areas involving a federal public purpose; the standards should reflect public sector standards of access to information. Appropriate provision should be made for legitimate concerns of personal privacy and commercial confidence (23.110).	◒	
Sponsoring departments should ensure that delegated arrangements include mechanisms to facilitate public consultation, make specific provision for relevant public sector values in the corporate culture, and establish appropriate mechanisms for redress of citizen complaints (23.116).	◓	Most delegated arrangements have put related provisions in place.

● Fully addressed ◓ Satisfactory progress ◒ Some progress ○ Unsatisfactory progress

[illegible]	[illegible]	[illegible]
Where existing new governance arrangements have inadequate provisions or practices for accountability and good governance, sponsoring departments should identify opportunities to negotiate appropriate improvements (23.121).	◓	A few delegated arrangements have identified such opportunities for improvement.
The government should begin a process of consultation with Parliament and the public on how to reconcile new governance arrangements with accountability to Parliament and how to formalize the participation and accountability of independent parties involved in the achievement of federal objectives. (23.125)	○	

The Canadian Adaptation and Rural Development Fund (CARD): An Example of Involving Others in Governing (1999 Report, Chapter 24)

[illegible]	[illegible]	[illegible]
Agriculture and Agri-Food Canada should provide further guidance to the [provincial] councils, in particular by defining and presenting the logic underlying the objectives, principles, guidelines, and criteria established by the Department. It should also work with the councils to develop better means of sharing experience and good practices (paragraph 24.17).	●	The shortcomings identified in 1999 included the lack or unclear nature of certain policies and a gap in guidance to provincial councils in a few areas related to the federal objectives, principles, guidelines, and criteria. Since 1999, the Department has closed policy gaps and provided additional guidance.
The Department should implement better means of ensuring that parliamentarians and the public have access to performance information collected by the program (24.19).	◓	To help address reporting responsibilities, annual performance reports from each council are required. These have been received and are posted on the Department's Web site along with the Fund's performance framework. The Department has been planning to increase the project data posted on its Web site since the Fund's inception. Some technical challenges as well as private and public legal issues have delayed this measure. Although reporting to the public and Parliament through the posting of council performance reports and the Fund's performance framework has increased transparency, we noted that over the last two years there are still some deficiencies. In particular, the reporting on the Fund in the 2001–02 *Report on Plans and Priorities* is problematic. The Department informed us that the next such report would provide more information on the Fund.

● Fully addressed ◓ Satisfactory progress ◒ Some progress ○ Unsatisfactory progress

[illegible]	[illegible]	[illegible]
The Department should consider and formalize a long-term strategy for its relationship with councils, including considering the merits of using the councils to deliver other programs (24.21).	◓	The Fund was established as an innovative model of third-party delivery. It allows industry councils in each province to decide how to best support agricultural adaptation. To ensure accountability, the government built several accountability mechanisms into the Fund. It requires that federal objectives, principles, guidelines, and criteria be respected and that performance information be provided.
The Department should incorporate the use of a capabilities assessment tool in its monitoring of program delivery by Canadian Adaptation and Rural Development councils (24.28).	●	

● **Fully addressed.** The original audit finding has been fully addressed and there is no need to take additional action.

◓ **Satisfactory progress.** Substantial progress has been made in addressing the original audit finding, but some additional action is still required.

◒ **Some progress.** Some progress has been made in addressing the original audit finding, but considerable additional action is still required to achieve the desired results.

○ **Unsatisfactory progress.** Progress has not been made in addressing the original audit finding, and action remains outstanding.

Report of the Auditor General of Canada to the House of Commons—April 2002

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to the House of Commons

APRIL

Chapter 2

Canada Customs and Revenue Agency—
Tax Administration: Write-Offs and Forgiveness

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

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Chapter

2

Canada Customs and Revenue Agency

Tax Administration: Write-Offs and Forgiveness

The audit work reported in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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Canada Customs and Revenue Agency

Tax Administration: Write-Offs and Forgiveness

Main Points

2.1 Under legislation referred to as the "fairness provisions," the Canada Customs and Revenue Agency can waive or cancel all or part of any interest or penalty owed by a taxpayer because of a delay or error by the Agency, circumstances beyond the taxpayer's or employer's control, or the taxpayer's inability to pay it. During the year ended 31 March 2001, the Agency waived or cancelled $185.3 million in interest and penalties.

2.2 The controls the Agency has put in place to guard against inappropriate forgiveness of interest and penalties are deficient. While the Agency has improved its administration of the fairness provisions, the fact that it does not record the amounts waived in interest and penalties and the reasons for waiving them is still a concern. The approval and monitoring processes also need to be strengthened and consistency and procedural fairness enhanced.

2.3 The *Financial Administration Act* or another legislative authority such as the *Bankruptcy and Insolvency Act* provides the Canada Customs and Revenue Agency with authority to write off uncollectible accounts. The Agency has reasonable controls in place to guard against inappropriate write-offs of taxes owed. However, it needs to strengthen the system by taking accrued interest into consideration and grouping related-party accounts together when considering approval to write off an account.

2.4 The Agency needs to take administrative action and/or seek legislative action to minimize the effects of a recent court decision that held that provincial limitations, which range from 2 to 20 years, apply to the collection of federal income taxes. The decision could prevent the Crown from collecting over $1 billion in owed income taxes and could result in different treatment of taxpayers who live in different provinces.

Background and other observations

2.5 The Agency manages a portfolio of taxes owed that is valued at over $13 billion. Most taxpayers who still owe tax when they file a return pay the balance promptly. However, some do not. Unlike businesses in the private sector, which can choose whether and to whom they will grant credit, the Agency must accept as accounts receivable all taxes owed by taxpayers. For the three-year period ended 31 March 2001, taxes owed that were written off averaged about $1 billion a year.

2.6 The Agency needs to monitor activities carried out on Canada's behalf by the Province of Quebec for GST accounts receivable—activities that include write-offs and the administration of the GST fairness provisions.

The Agency has responded. The Agency agrees with our recommendations and in its responses has indicated a number of actions under way to deal with them.

Introduction

2.7 Taxes are the government's largest source of revenue. Most taxpayers who still owe tax when they file a return pay the balance promptly. However, some do not. Unlike businesses in the private sector, which can choose whether and to whom they will grant credit, the Canada Customs and Revenue Agency (CCRA) must accept as accounts receivable all taxes owed by taxpayers.

2.8 Where the Agency collects taxes for a province under a tax collection agreement, the federal government pays the province the amount of provincial income taxes assessed, whether or not these amounts are ultimately collected. The federal government keeps any interest earned and certain penalties on provincial income taxes that are owed.

2.9 Under legislation, the CCRA does not start a legal action to collect income taxes owed until 90 days after it dates and sends a notice of assessment or reassessment. It will also hold off action to collect taxes that the taxpayer is contesting through the Agency's internal appeal process or through the Tax Court of Canada (except for large corporations, which are required in the interim to pay 50 percent of the tax amount in dispute). These restrictions on the Agency's ability to start collection proceedings do not apply to amounts that the taxpayer is considered to be holding in trust, such as employee deductions and GST collected.

2.10 Amounts not payable by taxpayers because the taxes assessed were being disputed totalled over $3.8 billion at 31 March 2001 (compared with $3.4 billion at 31 March 2000 and $3.2 billion at 31 March 1999).

2.11 The CCRA's policy is to delete (write off) uncollectible taxes from its active inventory of accounts receivable after it has taken all reasonable collection action and exhausted all possible means of collection.

Write-offs of taxes owed

2.12 The *Financial Administration Act* (FAA) and other legislative authorities such as the *Bankruptcy and Insolvency Act* provide the CCRA with authority to write off uncollectible accounts.

2.13 When taxes owed are written off under the FAA, the debtor is not relieved of responsibility for paying the debt; the CCRA deletes it from its active inventory only, so that resources are not allocated to work on accounts the Agency is unlikely to collect. If in the future the taxpayer is able to pay the debt, the Agency may collect it. However, debts written off under the *Bankruptcy and Insolvency Act* are permanently deleted.

2.14 **Controls in place.** The Agency has a number of controls in place to guard against inappropriate write-offs. Different levels of authority approve write-offs as their amounts increase; the higher the amount, the higher the level of authority to approve it (Exhibit 2.1).

Fact

Amount of taxes owed that the Agency wrote off

- in 1998–99: $874.2 million
- in 1999–2000: $876.0 million
- in 2000–01: $1,158.8 million

Source: Canada Customs and Revenue Agency

Exhibit 2.1 Levels of authority for write-off approval under the *Financial Administration Act*

Write-off amount	Required approval
Up to $5,000	Team co-ordinator or Manager, Revenue Collections Section
Up to $25,000	Assistant Director, Revenue Collections Division Section
Up to $250,000	Review by an uncollectible debt review committee comprising the Director, Tax Services Office; the Assistant Director, Revenue Collections; and a manager not involved in the collection process Approval by the Director, Tax Services Office; the Director General, Financial Administration; or the Assistant Commissioner, Regional Operations
Up to $500,000	Assistant Commissioner, Finance and Administration Branch
Over $500,000	Commissioner or Deputy Commissioner

Source: Canada Customs and Revenue Agency

2.15 The Agency is able to identify a taxpayer whose account has been written off but who, based on returns filed subsequently, may now be in a position to pay it.

2.16 In addition, a monitoring team visits tax services offices (TSOs) and audits amounts written off. These audits are done to ensure that every effort has been made to collect the account and that other policies and procedures are being followed.

Forgiveness of interest and penalties

2.17 The *Income Tax Act* and the *Excise Tax Act* impose various interest charges and penalties on a taxpayer who has failed to do the following:

- file an income tax return;
- pay all or part of an instalment due on taxes owed;
- withhold and remit payroll deductions (income tax, employment insurance, and Canada Pension Plan) from an employee's pay;
- pay taxes owed when due; and
- remit GST collected from customers as required.

2.18 The Canada Customs and Revenue Agency can either cancel or waive (forgive) all or part of any interest or penalties on unpaid income tax and payroll deductions for 1985 and subsequent years and on GST for 1991 and subsequent years (Exhibit 2.2). These actions are referred to as the "fairness provisions." The fairness provisions permit the Agency to help taxpayers resolve problems that arise in the following circumstances:

- a delay or error by the Agency;

- circumstances beyond the taxpayer's or employer's control; and
- the taxpayer's inability to pay.

The fairness provisions are not intended, and are not to be used, as a way for the Agency to negotiate the settlement of a taxpayer's account.

2.19 The fairness provisions are applied throughout the Agency. Taxpayers' requests to apply the fairness provisions are handled by the Agency at all service points across Canada, including tax services offices, tax centres, Customs border sites, and trade offices. Field office staff are responsible for processing fairness requests in an impartial, just, and consistent way. They are also responsible for making sure that fairness requests related to cancellation of interest and penalties on unpaid income tax, payroll deductions, and GST are recorded accurately in the fairness registry.

Exhibit 2.2 Interest and penalties forgiven ($ millions)

These figures exclude amounts cancelled or waived under the *Customs Act* and the Voluntary Disclosures Program.

Type of forgiveness	1998–99	1999–2000[1]	2000–01
Interest and penalties cancelled	65.2	64.3	68.2
Interest and penalties waived	No estimate made	9.1	117.1[2]
Total	65.2	73.4	185.3[2]

[1] The Agency estimated the amounts of interest and penalties waived starting in 1999–2000.

[2] Starting in 2000–01 the Agency included waivers that result from administrative policies, which amounted to $98.3 million.

Source: Canada Customs and Revenue Agency

Focus of the audit

2.20 A main objective of our audit was to determine whether the Agency has reasonable controls in place to guard against inappropriate write-offs and inappropriate forgiveness of interest and penalties. We did not audit the collection process. However, in the course of the audit we sought to identify opportunities for the Agency to reduce write-offs by improving its management of taxes owed.

2.21 In Quebec, the Province collects GST for the federal government. Quebec is responsible for the daily GST operations in the province but Canada has the responsibility to provide direction and establish accountability. Our audit did not examine Quebec's write-offs of GST.

2.22 For the purposes of this audit, we considered the fairness provisions related to the forgiveness—by cancelling or waiving—of penalties and interest on income taxes, GST, and payroll deductions. We did not include

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2.21 In Quebec, the Province collects GST for the federal government. Quebec is responsible for the daily GST operations in the province but Canada has the responsibility to provide direction and establish accountability. Our audit did not examine Quebec's write-offs of GST.

2.22 For the purposes of this audit, we considered the fairness provisions related to the forgiveness—by cancelling or waiving—of penalties and interest on income taxes, GST, and payroll deductions. We did not include the forgiveness of penalties and interest under the *Customs Act* or the granting of relief to taxpayers through other programs. Nor did we examine the application of the fairness provisions to the GST that Quebec administers for the federal government.

Observations and Recommendations

Write-offs of taxes owed

2.23 Taxes owed are written off if the debt is uncollectible or does not warrant the further costs of collecting it. If in the future the taxpayer is able to pay the debt, the Agency has the right to collect it (except for debts written off under the *Bankruptcy and Insolvency Act*, which are permanently deleted).

Controls need to be improved

2.24 Based on the files we reviewed, we found that the tax services offices we visited had respected the levels of delegated authority for approval. They had also followed the regulation stipulating the composition of the TSO committee that reviews and recommends the writing off of uncollectible debt.

2.25 We found that the Agency does not apply interest charges after the date of the account's last transaction (such as a reassessment or a payment) and include them in the amounts submitted for write-off approval. Therefore, the amounts approved by the committees on uncollectible debt were less than the amounts actually owed.

2.26 We also noted that not all accounts of related parties are grouped together when authority is sought to write them off. For example, if a number of related taxpayers together owed $65,000 but no one account was over $24,000, each account would require approval at the level of authority delegated for $5,000 to $25,000. In our view, control over write-offs could be enhanced by basing the level of authority required for approval on the total amount owed by all the related parties.

2.27 Federal GST in Quebec is collected by the ministère du Revenu du Québec (Quebec Department of Revenue). Quebec officials have the authority to write off GST accounts in that province. The Agency has advised us that it cannot monitor the Department's activities for GST accounts receivable, including write-offs, because the Department's systems contain provincial sales tax information that is confidential.

2.28 **Recommendation.** The Agency should do the following:

- take accrued interest into account and group related-party accounts together when considering approval to write-off an account; and
- ensure that it has the right to monitor the activities for GST accounts receivable that the Province of Quebec carries out on Canada's behalf and establish a process to do so.

Agency's response. It is agreed that accrued interest should be taken into account when seeking approval to write off an account. However, some of the

CCRA's tax revenue systems cannot provide this information readily at the time of write-off. As some of the various tax revenue systems migrate to Standardized Accounting (SA), this type of information will become readily available. In the interim, estimates of accrued interest will be prepared for all write-offs. A review of the debt will be conducted prior to convening the Uncollectible Debts Review Committee to verify and update account balances where appropriate.

It is agreed that related-party accounts should be grouped together when seeking approval to write-off an account. When an account has been identified as uncollectible, CCRA policy states clearly that any related accounts are to be reviewed and submitted as uncollectible at the same time. This policy will be reiterated to ensure that the delegated write-off authority levels are respected.

The CCRA is currently reviewing the terms and conditions of the GST agreement with officials from the Province of Quebec. Discussions are under way with Quebec officials to establish a process to ensure that the CCRA can monitor the GST accounts receivable activities, which include write-offs of taxes and forgiveness of interest and penalties.

Forgiveness of interest and penalties

2.29 To help taxpayers resolve problems that arise in certain specific circumstances, the Agency can apply the fairness provisions and forgive all or part of any interest or penalties on unpaid income tax, payroll deductions, and GST. When the Agency reverses a penalty or interest that has already been assessed to the taxpayer, it **cancels** it. When a penalty or interest has not yet been charged to the taxpayer and the Agency determines at the taxpayer's request or on its own initiative that the amount will not be charged, it **waives** it.

Cancel–Applies to interest or a penalty already assessed.

Waive–Applies to interest or a penalty not yet charged.

The fairness registry is of limited value

2.30 **The fairness registry.** In 1994, we recommended that Revenue Canada (now the CCRA) develop systems for tracking requests and the corresponding decisions under the fairness provisions. In April 1996, the fairness registry began to record such requests but only for cancellation of interest and penalties.

2.31 The Agency states that by recording all requests for cancellation, it will be better able to manage the resources used in handling fairness requests. It also states that all offices will have access to decisions granted in other offices. This will provide for more consistency nation-wide and will minimize the potential for "shopping" for the best fairness deal. The fairness registry will help account for the financial implications of relief granted under the fairness provisions, to be reported in the *Public Accounts of Canada*.

2.32 **The CCRA cannot determine reliably how long it has taken to complete action on a fairness request.** The fairness registry could be used to determine the length of time that has elapsed before action on a fairness request is completed. However, we found that different locations within the Agency use different dates to indicate when a request is received.

2.33 Many offices do not monitor the fairness registry to ensure that all entries are closed when action on the request is completed. As a result, many entries are shown as "open," and the "entry age" increases when action on the request has in fact been completed. By not recording the receipt of fairness requests in a consistent way and not closing them in the fairness registry when action is completed, the CCRA is unable to determine accurately how long it takes to complete a fairness request so it can monitor whether customer service standards have been met.

2.34 **Information recorded in registry is inadequate.** Often the Agency does not record in the registry the reasons for denials and approvals of requests for fairness. Without this information, the registry is of limited value in helping other decision-makers apply the fairness provisions consistently.

2.35 The registry does not show the penalty and interest amounts cancelled for each request. To determine the total number of requests and total amounts in penalties and interest forgiven in a fiscal year, the Agency uses a complex system involving seven mainframe computer applications and the fairness registry.

2.36 There is no central record of the actual time spent administering the fairness provisions. Agency staff told us there has never been a separate budget established for fairness activities; they are just an aspect of collection activities.

2.37 A lot of time is spent processing taxpayers' fairness requests, especially in Revenue Collections, where whole teams are dedicated to fairness. Knowing how much time is involved would be useful for better monitoring and management of the fairness provisions. We noted that at least 10 divisions in the five TSOs we visited had developed their own systems to account for and control fairness requests. A standardized system could provide this type of information for use by all locations.

Cancellation approval process needs to be improved

2.38 **The approval process.** We found that a taxpayer's request to cancel a penalty or an interest charge of less than $5,000 was usually approved or denied by Agency staff at the first level of supervision. A more senior official usually decided on requests involving amounts over $5,000. If not satisfied with the decision, the taxpayer can ask the Agency for a subsequent review. Someone other than the original decision-maker is required to do that review.

2.39 If the taxpayer is still not satisfied with the decision and believes that the CCRA did not exercise its discretion properly, the taxpayer is entitled to a judicial review by the Federal Court of Canada's Trial Division. The scope of the Court's review is restricted to the Agency's exercise of discretion. The Federal Court will not overturn a decision by the Agency, but it may refer it back to the Minister of National Revenue for reconsideration.

2.40 The composition of committees to review fairness requests (fairness committees) and their use in the decision-making process varies from office to office and from branch to branch within an office. These committees are different from the committees that review uncollectible debts and are involved in a separate process. Fairness committees are a way of ensuring impartiality, accuracy, and consistency in making decisions. Local management determines the composition of the committees. In some cases, no committee is used; in other cases, a committee reviews only the taxpayer's initial request. In some cases two committees are used, one to review the initial request and one to review the subsequent request, if applicable.

2.41 **A rigorous approval process is needed.** When taxes owed are written off under the *Financial Administration Act*, the CCRA deletes the amount from its active inventory only. If in the future the taxpayer is able to pay the debt, the Agency may collect it. When interest and penalties owed are forgiven under the fairness provisions, the debtor is relieved of any responsibility to pay the debt. Forgiveness under the fairness provisions therefore represents a greater risk to the government's tax revenues than write-offs under the FAA, yet the approval process is not as rigorous.

2.42 Write-offs under the FAA require approval at a higher level of authority as the amount increases (Exhibit 2.1), from $5,000 and under to $25,000, to $250,000, to $500,000, and over $500,000. In contrast, we found that amounts cancelled under the fairness provisions usually involve only two approval levels, one for amounts under $5,000 and one for amounts over $5,000.

2.43 **Striving for consistent decisions.** One goal of tax administration is consistency. A taxpayer expects the same treatment from every tax services office across Canada given the same set of facts. To achieve consistency, the Agency's central administration communicates policies and guidelines on processing fairness requests. The decision-making framework and the final approval or denial of a fairness request are left to the local tax services office.

2.44 The CCRA's *Performance Report* notes that for the most part, fairness provisions are applied consistently across programs and regions, but this assessment is based on weak data quality. The report also notes that the introduction of a systematic quality monitoring initiative in 2001–02 will allow the Agency to confirm the actual levels of consistency for future reporting.

2.45 In some of the tax services offices we visited, staff commented that it was hard to maintain consistency with so many people involved in the process. During our examination, only two cases of inconsistent decision making came to our attention (see page 10).

2.46 **Procedural fairness must be ensured.** As already noted, a taxpayer who is not satisfied with the results of the administrative reviews by the local TSO may apply to the Federal Court of Canada's Trial Division to review the Agency's exercise of discretion.

2.47 Two recent court decisions on applications for judicial review favoured the taxpayers, setting aside the Agency's decisions at the review level and referring the matter back to the Agency for reconsideration by persons not involved previously in the matter.

2.48 In both cases, the Court found that the CCRA had breached its own internal procedures for ensuring that the same decision maker is not involved in both the initial review and the subsequent review. The Agency had allowed the same officials to participate at both levels of review.

2.49 We looked at the procedures of five TSOs. In three of them, we found a total of five situations where the same officials can have significant influence at both levels of review. Based on descriptions in reports by the program monitoring unit in Revenue Collections, it is possible that there are five other TSOs where the second review is not independent enough from the first.

Two cases of inconsistent treatment of taxpayers

Case 1. A large service provider with locations across the country changed its payroll provider. The payroll provider set the frequency of payroll deduction remittances incorrectly, which delayed remittances to the Agency in many locations.

Requests to cancel the penalty for late remittances were sent to various tax services offices across Canada. Four requests were approved; two others have not yet been reviewed; and one was denied twice although it was known that four requests had been approved.

Case 2. A tax services office (TSO) approved the cancellation of penalties for late filing by a number of taxpayers because of their financial hardship. When the TSO sent the decisions to a taxation centre for processing, the centre disagreed with the decisions. It said the taxpayers could have avoided the penalties had they filed their returns on time without payment. The centre also noted that other TSOs were denying similar requests.

The monitoring process needs to be extended and improved

2.50 The program monitoring unit of the Revenue Collections Directorate visits TSOs to ensure that they are applying the Directorate's policy and procedures correctly in administering the fairness legislation and are handling requests as quickly as possible. Since February 1998, the unit has reviewed the fairness process in 37 tax services offices; it has reviewed over 1,100 fairness request files.

2.51 In the majority of the locations it visited, the monitoring unit concluded that generally all decisions had been made in accordance with the CCRA's policy and guidelines and had been considered by people at the proper levels.

2.52 The monitoring unit reviews only fairness requests processed by the Revenue Collections Directorate, that is, all fairness requests involving financial hardship. It does not review the way the fairness provisions are applied in other areas such as audit, appeals, and client services. We saw no indication that anyone else monitors fairness activities in those areas.

2.53 Local offices do not use management reports routinely for monitoring. Several locations do not monitor the accuracy of the "open" items in the fairness registry. We found that they had not used or were not aware of standard reports available to assist them in monitoring.

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Controls on waiving penalties and interest are deficient

2.54 As noted before, a waiver is a decision not to charge a penalty or interest to a taxpayer and not to record it in the taxpayer's account. A waiver may be granted at the taxpayer's request or on the Agency's initiative—for example, under a policy that allows a taxpayer to submit payroll deductions late without penalty once every 13 months.

2.55 A waiver can also be granted at the end of an audit when the reassessment amount is being determined. If the Agency has delayed completing the audit or issuing the reassessment, it may decide not to charge the taxpayer interest accrued over a certain period of time. In such a case, the auditor and his or her supervisor make the decision; the assistant director may approve it, depending on local practice.

2.56 In 2000–01 the estimated total value of waivers, including automatic waivers (which are not subject to the criteria for the fairness provisions), was $117.1 million—over 70 percent more than the $68.2 million in interest and penalties that were cancelled (Exhibit 2.2). Yet, the approval process for waivers is less rigorous than for cancellation, which in turn is less rigorous than the process for approving the write-off of taxes under the FAA. We saw no indication, for example, that fairness committees were used for waivers or that waivers were subjected to any monitoring reviews.

2.57 Waivers are not recorded in any system: there is no audit trail. However, the *Financial Administration Act* requires that they be reported in the *Public Accounts of Canada*, and the CCRA started to report them just two years ago, based on estimates.

2.58 In 1994, we recommended that the Agency develop systems for tracking requests and decisions under the fairness provisions and monitor the circumstances that led to adjustments. In 1996 we noted that the system the Agency planned for tracking fairness requests would record only amounts cancelled and not amounts waived. We recommended that both amounts be recorded. In 1998 the Agency told us it was enhancing the system to track and report interest and penalties waived at the reassessment stage.

2.59 We have found, however, that the deficiency in the system still exists. In our view, prudent management would require that the Agency record all the costs to the government when it waives interest and penalties under the fairness provisions. It could accomplish this by charging the interest and penalties on the assessment or reassessment and subsequently cancelling them. The Agency also needs to ensure that it keeps an appropriate audit trail.

2.60 As the governments of Canada and Quebec agreed in 1992, Quebec manages the daily GST operations in the province but Canada has authority to provide direction and establish accountability.

2.61 As we have noted, the CCRA advised us that it cannot monitor the Province's activities, including the cancellation and waiving of interest and penalties under the fairness provisions. Forgiven interest and penalties on GST administered by Quebec totalled $3.0 million for 2000–01, $4.4 million for 1999–2000, and $5.7 million for 1998–99. We have recommended (paragraph 2.28) that the Agency ensure that it has the right to monitor the activities carried out on Canada's behalf by the Province of Quebec for GST accounts receivable and establish a process to do so.

Policy on late remittance of trust funds is not consistent

2.62 The CCRA's policy is to allow an employer to remit payroll deductions late without penalty once every 13 months. The circumstances under which a penalty can be waived or cancelled do not apply. But there is no similar policy on late remittance of other funds held in trust, such as GST. The policy thus provides late remitters of payroll deductions a benefit that late remitters of GST do not enjoy.

2.63 **Recommendation.** The CCRA should do the following:

- enhance existing procedures and systems to ensure that they provide appropriate and accurate information to better manage the fairness requests;
- review the process for approving fairness requests, both the initial request and the subsequent request, in each TSO division to ensure that the same officials do not participate in the decisions at both levels of review;
- expand its monitoring to all areas in the Agency involved in granting relief under the fairness provisions;
- ensure that the reasons for waiving interest and penalties are recorded with their actual amounts and that these amounts are reported to Parliament; and
- re-examine its policy on late remittance of funds held in trust to ensure that it is applied consistently and fairly.

Agency's response. The CCRA has taken or plans to take a number of measures in response to this recommendation.

In June 2000, the CCRA initiated an extensive review of all the fairness provisions guidelines. The intent of the review was to set out more clearly the purpose and intent of the fairness provisions, the delegation of the Minister's powers and duties, the roles and responsibilities of those involved in the review process, and the procedural rules when requests are reviewed. As a result of this review, enhanced guidelines were developed and published in the *Fairness Provisions Reference Guide*, which was released in June 2001 to all employees involved in the fairness provisions process. The Guide was also put on the CCRA Intranet to allow ready access for all CCRA employees.

Through the leadership of the National Fairness Committee the Agency continues to address existing, proposed, and future fairness provisions policy issues and to look for opportunities to enhance the Agency's overall procedures.

The CCRA recognizes the importance of improving its tracking, monitoring, and reporting for fairness provisions workloads. In June 2001, the Agency launched the Fairness Systems Review, an initiative aimed at enhancing the accuracy and adequacy of the reporting of interest and penalties that are waived and cancelled under the fairness provisions, and improving the tracking and monitoring of fairness provisions requests. During this review, the systems used to manage requests, including the fairness registry, will be thoroughly examined to achieve the necessary enhancements.

As noted in paragraph 2.50, the Agency carries out extensive monitoring activities in relation to fairness requests involving financial hardship. As recommended by the Auditor General, the Agency will ensure that monitoring activities are expanded to include all areas involved in granting relief under the fairness provisions and that the results of these activities are available on a national basis. As stated in the CCRA's 2000–01 *Annual Report*, while we do not have a systematic review in place at the national level to monitor and confirm consistency of decisions to either cancel or waive interest and penalties, we do provide officers with tools and guidelines to help ensure consistency, supported by fairness committees at most local tax services offices. Plans are in place to institute a systematic fairness monitoring process for all business lines, as part of the Agency's Quality Monitoring Initiative.

With respect to ensuring that the same officials are not involved in deciding fairness requests at both levels of review, as previously noted, the *Fairness Provisions Reference Guide*, issued in June 2001, clearly defines the decision-making framework for fairness requests including the requirement that second reviews must be performed by officials other than the original decision makers. Furthermore, in September 2001, after the two court decisions referred to in paragraph 2.47 were published, all areas involved in the review of fairness provisions requests were reminded to ensure that the decision-making framework is understood and consistently followed. The steps that the Agency has taken to clarify and reinforce the decision-making framework for fairness requests among employees will ensure that the same decision maker is not involved in both initial and subsequent reviews and that discretion is exercised in a proper and appropriate manner.

With respect to recording the reasons for waivers, the CCRA records the justification for granting waivers in several ways. The reasons for waiving interest and penalties for client-requested waivers are recorded for each case in Agency systems. The reasons supporting automated waivers are based on administrative policies or directives. With respect to recording and reporting on the amounts waived, beginning with the 1999–2000 fiscal year, the Agency has been reporting estimated amounts of interest and penalties waived under the fairness provisions in the Public Accounts. As part of the Fairness Systems Review, the Agency is reviewing the reporting mechanisms for waivers to determine how they can be reported based on actual amounts.

As recommended by the Auditor General, the CCRA is re-examining its policy on late remittances. One of the options under consideration is a system of graduated penalties, similar to that of other tax administrations.

Improving the management of taxes owed

Over a billion dollars owed in income taxes may not be collectible

2.64 The Agency estimates that as a result of a recent court decision, it could be barred from collecting over $1.1 billion owed in taxes. The decision held that provincial limitation laws apply to collection proceedings under the *Income Tax Act*. This means that collection action on income tax debts in all provinces may become statute-barred, depending on the age of the debt, the specific provincial limitation period involved, and the nature of the collection action.

2.65 The periods for provincial statutes of limitation range from two years in Alberta to 20 years in Ontario. The limitation period may be extended if the taxpayer makes a voluntary payment or acknowledges the debt in writing, or if the CCRA certifies the debt in the Federal Court. Taxpayers in a province with a brief limitation period could be subject to more rigorous collection actions than taxpayers in a province with a longer limitation period.

2.66 The Agency believes that the court decision affects only income tax debts and not debts of GST, excise tax, customs duties, or excise duty.

2.67 On 6 December 2001, the Supreme Court of Canada granted the Crown leave to appeal the decision. The Agency has advised its staff to review their inventories of income tax receivable accounts on a priority basis and identify those that may be at risk, take appropriate measures to collect debts sooner, and take preventive measures to extend the limitation period wherever possible.

Amounts owed in funds held in trust have increased 27 percent

2.68 The total amount owed in funds held in trust (payroll deductions and GST) increased from $3.7 billion at 31 March 1999 to $4.7 billion at 31 March 2001. Businesses that do not remit employee deductions and GST are, in effect, keeping trust money that does not belong to them.

Using statutory declarations

2.69 Before deciding whether to enter an arrangement for payment of owed taxes or to waive or cancel interest or a penalty because of financial hardship, the Agency often requires the taxpayer to provide information on his or her financial position, income, and expenses as well as closer-than-arm's-length transactions and transfers of assets. Obtaining this information by a signed statutory declaration would emphasize to taxpayers the importance of providing accurate information, thus helping the CCRA to improve its collections.

Deferral of corporate tax instalments for small businesses

2.70 The federal Budget of 10 December 2001 introduced a legislative change designed to help small businesses meet immediate cash flow needs by deferring for six months their corporate tax instalments for January, February, and March 2002. The government estimates that this will defer the payment of $2 billion in taxes by small businesses until next year.

2.71 This change presents a challenge to the Agency because the amount that small businesses owe in the future will be an estimated $2 billion higher.

2.72 **Recommendation.** The CCRA should do the following:

- ensure that it takes appropriate administrative action and/or seeks legislative action to minimize the effects of the recent court decision that may prevent the Crown from collecting taxes owed;
- develop an appropriate enforcement strategy to deter businesses from keeping trust money that does not belong to them;
- consider adopting a policy of obtaining signed statutory declarations from taxpayers to improve controls over the collection of taxes owed and the cancellation and waiver of interest and penalties; and
- develop a means of administering the recent legislative change in a way that reduces the risk of collecting deferred instalments of corporate taxes owed by small businesses.

Agency's response. The CCRA agrees and will take the following measures in response to these recommendations:

- The Agency will continue in its efforts to ensure that appropriate action, both on the operational and legislative sides, is taken with respect to any decision made by the Supreme Court.
- To deter businesses from keeping trust money that does not belong to them, the Agency is currently developing and analyzing risk profiling strategies to better target clients who pose a potential risk in terms of not remitting trust funds voluntarily.
- The Agency will analyze the possibility of signed statutory declarations from taxpayers.
- The Agency recognizes the implications of the deferring of instalment payments of corporate tax on small business and will take appropriate action to protect the Crown's interest.

Conclusion

2.73 The Agency needs to strengthen the policies and procedures it has in place to guard against inappropriate writing off of taxes owed and to provide for fair, consistent, and equitable treatment of taxpayers. For example, it needs to group together all related-party accounts when write-off approval is sought and to take into account accrued interest when referring debts to the committees that review uncollectible debts.

2.74 The policies and procedures the Agency has put in place to guard against the inappropriate forgiveness of interest and penalties and to provide for fair, consistent, and equitable treatment of taxpayers are deficient. While the Agency has improved its administration of the fairness provisions, it still has much to do. For example, it needs to improve the information in the fairness registry; enhance procedural fairness; record its reasons for waiving interest and penalties and the actual amounts it waives; and strengthen the approval process. The Agency needs to be consistent and fair in waiving the interest due on funds held in trust that are remitted late.

2.75 To improve controls over the collection of taxes owed and the cancellation and waiver of interest and penalties, the Agency needs to consider adopting a policy of obtaining statutory declarations from taxpayers.

2.76 The Agency needs to improve its monitoring of write-offs and forgiveness activities. It needs to monitor the activities carried out on Canada's behalf by the Province of Quebec for accounts receivable. It should expand its monitoring to cover all directorates involved in approving fairness requests.

2.77 Although the audit focussed on the Agency's policies and procedures for the writing off of taxes owed and the forgiveness of interest and penalties, we identified a number of opportunities to improve the collection process that we believe can reduce write-offs. The Agency needs to develop an enforcement response to deter businesses from keeping trust money that does not belong to them. In administering the legislation introduced in December 2001 that allows small businesses to defer corporate tax instalments, it needs to find a way to reduce the risk to collecting the taxes owed. The Agency also needs to take action that will minimize the effects of the recent court decision that could limit its ability to collect over $1 billion in owed income taxes.

About the Audit

Objectives

The objectives of our audit were the following:

- to assess whether the CCRA has reasonable controls in place to guard against inappropriate write-offs of taxes owed and inappropriate forgiveness of interest and penalties; and
- to identify opportunities to improve the management of taxes owed.

Scope and approach

The audit focussed on the Agency's policies and procedures related to the writing off of taxes owed and the forgiveness of interest and penalties.

In Quebec the Province collects GST for the federal government. Quebec is responsible for the daily GST operations in the province, but Canada has authority to provide direction and establish accountability. Our audit did not examine Quebec's write-offs of GST.

For the purposes of this audit, we considered fairness provisions related to the cancelling or waiving (forgiveness) of penalties and interest on unpaid income taxes, GST, and payroll deductions. We did not include the forgiveness of penalties and interest under the *Customs Act* or the granting of relief to taxpayers through other programs. Nor did we examine the application of the fairness provisions to the GST that Quebec administers for the federal government.

We conducted our audit work at the Agency's head office, five tax services offices, and two tax centres. We reviewed selected cases, interviewed management and staff, and analyzed monitoring reports and other information.

Criteria

Our audit was based on the following criteria:

- The CCRA should have in place polices and procedures to guard against inappropriate write-offs of taxes owed and inappropriate forgiveness of interest and penalties, while providing taxpayers with fair, consistent, and equitable treatment.
- The CCRA should have an appropriate framework in place for monitoring and evaluating the results of write-off and forgiveness activities to ensure compliance with its policies and procedures.

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Report of the Auditor General of Canada to the House of Commons—April 2002

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2002

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to the House of Commons

APRIL

Chapter 3
Information Technology Security

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

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Chapter

3

Information Technology Security

The audit work reported in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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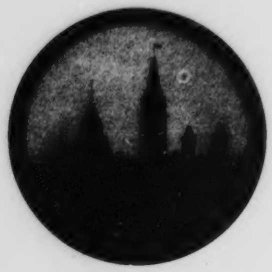


Information Technology Security

Main Points

3.1 The revised Government Security Policy came into effect in February 2002, replacing the 1994 policy. It has a strong focus on information technology (IT) security and is an important step toward improving the governance of security across government.

3.2 We found that the IT security standards that support the Government Security Policy are out-of-date and a plan to update them has yet to be completed. The security policy will not be fully effective without updated standards, setting out the minimum requirements that departments and agencies must meet. The standards are an essential tool for supporting appropriate IT security practices across government.

3.3 Moreover, there was little monitoring of the 1994 policy. As a result, the government does not have enough information to assess the overall state of IT security. It does not have an adequate basis for determining whether current practices across government are acceptable, nor does it have an appropriate baseline for measuring future progress. Furthermore, the revised policy calls for a report on its effectiveness but not before summer 2004. In our view, a report is needed sooner.

3.4 The government has made a commitment to connect Canadians and provide them with on-line access to services. The Government On-Line initiative was launched to accomplish these goals. Security and privacy concerns have been identified as a key issue in this initiative. It is important that the government promptly address those concerns in order to support Government On-Line.

Background and other observations

3.5 Cyber threats are real and can do significant damage. Recent attacks using viruses and other types of malicious code have raised the profile of IT security. With the heightened awareness of national security, IT security is widely seen as essential to protecting our critical infrastructure.

3.6 Our audit of four departments found a number of weaknesses that could provide some insight into the state of IT security across government. They could help the government set priorities for the operational and technical standards it develops to support the revised Government Security Policy.

3.7 Although the departments have established a governance framework, they need to implement it better to make it fully effective. This is especially true in departments where responsibilities for information systems are decentralized and in departments with strategic partnerships and/or outsourcing relationships with other government organizations. Other improvements needed to address some weaknesses we identified include the following:

- conducting broad-based risk assessments and providing employees with adequate training in information security awareness;
- ensuring that IT security is considered at the start of a system development life cycle and that ongoing monitoring is carried out with appropriate scope; and
- carrying out audits and independent reviews periodically, including technical testing for potential vulnerabilities in network systems.

The government has responded. The Treasury Board Secretariat, on behalf of the government, has generally agreed with the recommendations. The government's responses, including the action that it is taking or intends to take to address the recommendations, are set out in the chapter.

Introduction

Cyber threats and their potential consequences

3.8 Most large organizations and governments depend on information systems to carry out business functions or deliver government services. With use of the Internet increasing worldwide, many governments are moving to deliver services on-line.

3.9 In Canada, government systems are increasingly interconnected, creating new opportunities for collaboration but also new risks to information assets. Information assets include computers, software, network and telecommunications equipment and, more important, data in electronic format.

3.10 Cyber incidents can do significant damage to an organization. They can impair information assets and disrupt business operations. Some incidents result in lost productivity; others can lead to loss of consumer confidence, a tarnished reputation and loss of credibility, or outright fraud.

3.11 Information technology (IT) security measures are necessary to minimize the risks. In addition to safeguarding information assets, IT security is aimed at maintaining the confidentiality, integrity, and availability of information—important objectives in government operations. Most government departments and agencies have sensitive information that requires restrictions on access, and privacy requirements that they have to meet. Data integrity is critical to ensuring that program administration and delivery are based on proper information. Information systems are a part of the government's critical infrastructure; its reliance on them will increase as it provides on-line access to more services. Keeping information systems available is now essential for uninterrupted service to the public.

Cyber incidents are real and on the rise

3.12 Computer viruses and other malicious codes have caught the recent attention of the media and the public. In February 2000, successful cyber attacks were launched against a number of high-profile commercial Web sites such as Yahoo! and Amazon.com. Those responsible attacked the information systems of many organizations worldwide, and used those systems to simultaneously attack and disable the targeted Web sites.

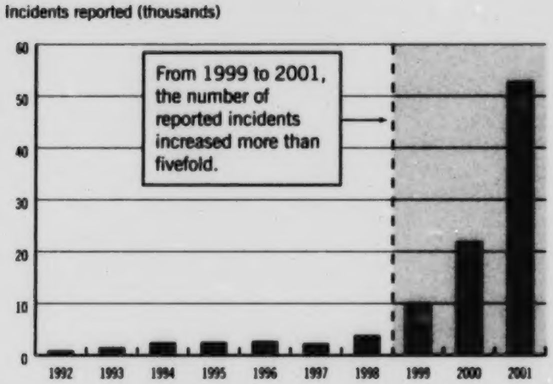
3.13 Many other viruses and attacks have been reported since then, from the "I love you" virus in May 2000 to the "Code Red" and "Nimda" attacks in 2001. Unsuspecting victims had to open attachments to electronic mail for some of those attacks to work, but other attacks were more insidious and required only that a victim view the mail message.

3.14 The costs to the victims of these attacks can be high. For example, repairs and lost productivity associated with the "I love you" virus alone cost an estimated US$ 8.7 billion. And the value of any lost information may never be determined.

3.15 The IT security community knows that readily available and easy-to-use software tools can be used to perpetrate attacks. Hackers take pride in using them to break into information systems and/or disable them.

3.16 The data on reported cyber incidents show the extent of the threat. Data from the United States show a dramatic rise in reported incidents, particularly in recent years. As Exhibit 3.1 illustrates, from 1999 to 2001 the number of reported incidents in that country increased more than fivefold, from about 10,000 to about 52,700.

Exhibit 3.1 Rise in reported cyber incidents in the U.S.



Note: The Centre tabulates the number of cyber incidents detected and reported by third parties.

Source: CERT Coordination Center (U.S.)

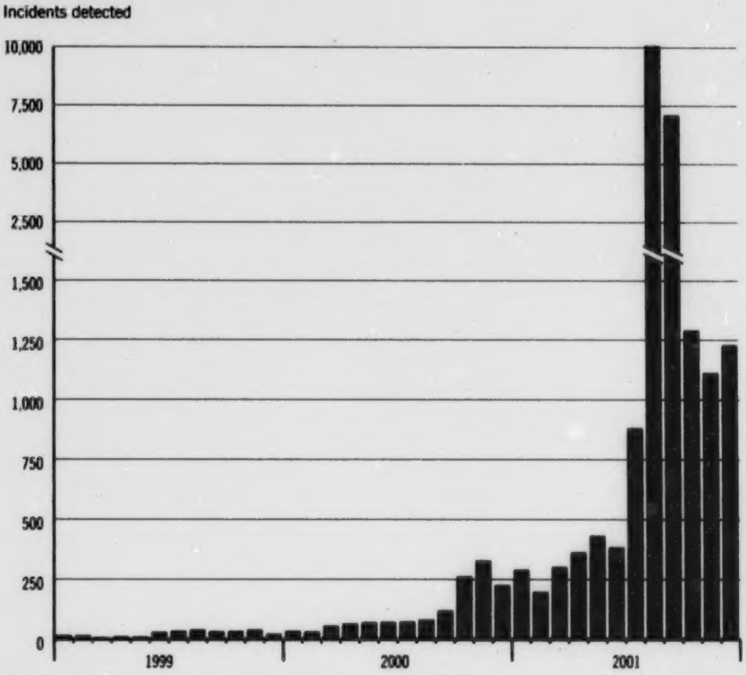
Point of presence on the Internet—A facility or device that allows Internet access to an organization's network systems.

3.17 Canada's federal government began a project in summer 1999 to assess the level of cyber threat to its Internet presence. A single point of presence on the Internet for each of six departments was observed for up to three months and unusual network traffic noted and analyzed. The test generated over 80,000 alarms. Further analysis of those alarms showed more than 500 attempts to penetrate departmental systems. Most of those attempts involved probes by potential attackers, many of them using automated tools.

3.18 Although there are no other data specifically on government systems, the rising Canadian trend in the number of cyber incidents (Exhibit 3.2) parallels the U.S. trend. Data from CanCERT, a service that tracks and reports cyber incidents in Canada, show 10,000 incidents in August 2001 and 7,000 in September 2001, overwhelmingly dominating the entire year's statistics (Exhibit 3.3). With the heightened awareness of national security, law enforcement agencies and the public have given cyber alerts and IT security concerns a much higher profile.

3.19 Media reports on cyber attacks and the dramatic increase in reported cyber incidents show that cyber threats represent a real and growing danger and can have a significant impact on an organization. Moreover, as information systems form part of our critical infrastructure, cyber attacks form part of a terrorist threat to our national security. This makes IT security an important management priority and responsibility.

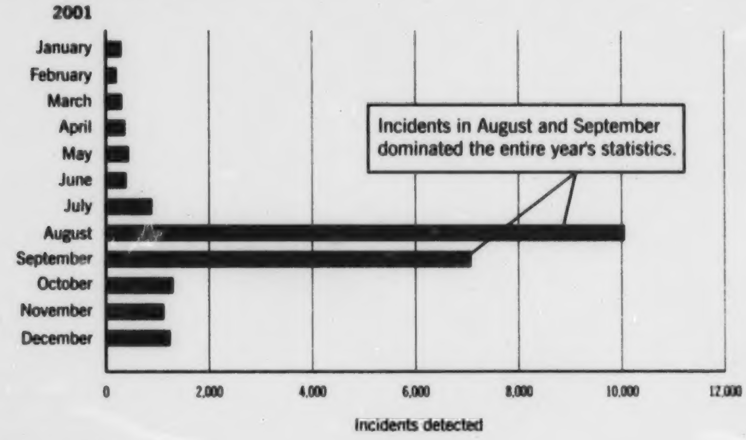
Exhibit 3.2 Canadian cyber incidents, 1999–2001



Note: In Canada, CanCERT tracks cyber incidents and tabulates the number of incidents that it has detected.

Source: CanCERT

Exhibit 3.3 Canadian cyber incidents in 2001



Source: CanCERT

Focus of the audit

3.20 The objective of our audit was to assess the framework for information technology security that the government has in place to protect its information assets and provide for secure, uninterrupted delivery of electronic services to Canadians. We examined the government-wide IT security framework and reviewed the IT security practices of four departments or agencies. The selected departments were not intended to be a representative sample but to provide an insight into government IT security practices.

3.21 We interviewed staff from agencies that have a lead role in IT security across government and examined related documents and files. In the four departments, we met staff who have security and/or IT responsibilities. We also conducted remote technical tests of networks in some departments.

3.22 Further information about the audit objective, scope, approach, and criteria can be found at the end of the chapter in About the Audit.

Observations and Recommendations

Government-wide framework

3.23 Like other important issues that affect all departments and agencies, IT security requires a good governance framework, one that defines leadership responsibilities, articulates the roles of various lead agencies and each department, and sets out accountability relationships. The Government Security Policy provides the governance framework for all aspects of security, including IT security. The Treasury Board Secretariat is responsible for the policy, and its provisions apply to all departments and agencies.

3.24 The Government Security Policy and its directives have three levels. At the top is the overall security policy that sets out the requirements for protection of government assets and personnel and the roles and responsibilities of lead agencies. The second level sets out the operational security standards and practices, and the third level the technical security standards and practices.

Comprehensive update of the Government Security Policy

Government On-Line—A Government of Canada initiative to use the Internet to provide on-line services to Canadians.

3.25 The first version of the Government Security Policy (GSP) came into effect in 1986 and was revised in 1994. Information technology has advanced rapidly since 1994. The use of the Internet and various on-line applications in Canada has grown significantly. To meet its commitment to become the government most connected with its citizens, the federal government launched its Government On-Line initiative to make its services accessible on the Internet. Along with those developments came new risks and challenges to security. Moreover, the government began in the late 1990s to define Canada's critical infrastructure. The 1994 revision of the GSP did not contemplate all of those IT security issues.

3.26 The Treasury Board Secretariat recognized that the policy did not adequately cover current issues of information technology and critical infrastructure. In April 2000 it began a comprehensive review to revise the policy in four phases. Phase 1 would identify deficiencies in the current policy. Phase 2 would develop recommendations on the scope of the revision to correct the deficiencies and would make the recommended changes. Phase 3 would present a submission to the Treasury Board for its approval of the revised policy. Finally, phase 4 would communicate and implement the revised policy and the related standards.

3.27 After surveying departments and agencies, the Secretariat finished identifying the 1994 policy's deficiencies in June 2000. In phase 2, it involved over 100 participants from across government, who served on working groups and committees. By November 2000, they had recommended that the revised security policy address the following:

- government-wide IT security requirements to protect interconnected systems and enable secure Internet delivery of services to Canadians;
- availability and integrity of information and IT systems;
- a clear governance framework with improved policy monitoring and more oversight by senior management; and
- improved security screening and protection of personnel against threats and acts of violence.

Drafts of the policy were circulated to departments and agencies, and the consultation process was completed in October 2001. The Treasury Board endorsed the revised policy and approved it on 6 December 2001. The revised Government Security Policy came into effect on 1 February 2002.

Revised security policy defined the governance framework for information technology security across government

3.28 The main policy document of the 1994 policy had made very few specific references to IT security. In particular, it did not define the governance framework for IT security across government. Although deputy heads were responsible for protecting their departments' employees and assets, accountability for IT security government-wide was limited. The 2000 review of the Government Security Policy identified this weakness and recommended that it be corrected during the revision.

3.29 The 2002 policy still makes deputy heads accountable for implementing it as well as for protecting the employees and safeguarding the assets under their responsibility. We noted that the Treasury Board Secretariat has a defined leadership role in matters of government-wide IT security. Among others, it is responsible for developing and updating the security policy; providing strategic direction, leadership, and advice; and monitoring and reporting to the Treasury Board on policy implementation and the state of security in the government.

3.30 Secretariat staff indicated that they plan to use the structure of working groups and committees that developed the 2002 policy to develop guidance and advice on IT security matters. The proposed structure includes a security policy advisory committee, a security policy co-ordinating committee, and several security working groups.

3.31 The revised Government Security Policy updated the roles and responsibilities of 10 departments that act as lead security agencies. In addition to the three lead agencies we interviewed—the Royal Canadian Mounted Police, the Communications Security Establishment, and the Office of Critical Infrastructure Protection and Emergency Preparedness—the 10 include notably the Canadian Security Intelligence Service, National Defence, and the Department of Foreign Affairs and International Trade.

3.32 The governance framework for IT security defined in the revised policy fills a significant gap that existed in the 1994 policy. It articulates the leadership and support required to implement and maintain effective IT security practices in government. Moreover, it specifically considers the importance of IT security to government security overall. Among the objectives for IT security is the protection of the confidentiality, integrity, and availability of information assets, all aspects that are important to the government's operations. The governance framework defined in the 2002 Government Security Policy is an important starting point, and met our expectations in providing for proper leadership and support of consistent, cost-effective IT security across government.

Update of information security technology standards and practices needs to be accelerated

3.33 We have noted three levels at which the Government Security Policy operates. The top level provides the overarching framework for security and is supported by the operational and technical standards of the two other levels. The policy statements refer to baseline security requirements that departments and agencies must meet, that is, the minimum standards. Under the revised policy, the Secretariat can approve updates to the operational standards without going to the Treasury Board for approval.

3.34 We would expect operational and technical standards and practices for IT security to be kept up-to-date and commensurate with current levels of risk and threats to IT security.

3.35 The existing operational standards for IT security were published in 1994 and were last updated in 1995. Those standards and practices do not specify requirements for security against the risks and threats introduced by growing interconnectedness and Internet use across the government. The Technical Security Standard for Information Technology, published by the Royal Canadian Mounted Police (RCMP) in 1997, serves at present as a set of third-level requirements of the Government Security Policy. Those standards were developed before the Government On-Line initiative and are not up-to-date.

3.36 The Treasury Board Secretariat is responsible for directing and co-ordinating the update of operational and technical standards for IT security. During the audit, we noted that it had started to address gaps in IT security standards and practices as the 1994 policy was being revised. But much of its effort then focussed on completing the top-level policy document, so work on the standards and practices remains at an early stage.

3.37 We asked to see the Secretariat's plans and timetable for updating the 1995 and 1997 standards. At the end of our audit, the plans and timetable have yet to be completed. The plans for communicating and implementing the 2002 Government Security Policy were still being developed as well.

3.38 Up-to-date operational and technical standards are essential to IT security in the government. They set out the baseline requirements and provide a basis for consistent IT security measures across government. In addition, they form the yardstick for the monitoring and oversight of security practices. We found that some elements of the 1995 operational standards are not fully consistent with the revised policy. The Treasury Board Secretariat advised us that it has focussed on a number of major projects to support the Government On-Line initiative. The projects provide a basis for developing certain security standards; on completion, those projects will also help provide a secure environment for delivering on-line services to Canadians.

3.39 Departments and agencies need to know the baseline requirements to determine the security measures they need and the resources it will take to implement them. The lack of up-to-date standards at the operational and technical levels will reduce the effectiveness of the 2002 Government Security Policy. It is important that they be updated on an accelerated basis.

3.40 **Recommendation.** The Treasury Board Secretariat should accelerate the development of baseline requirements for information technology security to support the 2002 Government Security Policy. It should consider prioritizing various security requirements and update the standards in order of their criticality.

Government's response. The Treasury Board Secretariat agrees that the development of IT security standards must be accelerated in support of the Government Security Policy, and undertakes to do so within available resources. The Secretariat is also of the view that much of the work undertaken over the past few years as part of the Government On-Line initiative—such as the development of the Public Key Infrastructure, the Federated Architecture Program, and the Secure Channel—in addition to the comprehensive review of IT security issues leading to the renewal of the Security Policy of the Government of Canada had to be completed before IT security standards could be developed to meet both government-wide and departmental business and security needs. This approach is consistent with commercial and public sector literature that recommends the use of enterprise-wide architecture plans in developing standards, network-wide requirements, and overall security policy.

Monitoring and oversight

3.41 During the audit, the 1994 Government Security Policy and the 1995 IT security operational standards were in force. The revised policy came into effect only in February 2002, after we had completed our audit. We audited against the monitoring requirements of the 1994 policy and reviewed the revised provisions for monitoring and oversight. In either case, we would expect that IT security practices would be monitored and assessed and corrective action taken as appropriate.

Monitoring and oversight across government have been lacking

3.42 Ongoing monitoring and periodic reporting provide management with information on the adequacy and appropriateness of measures to protect the security of IT systems and the information they contain.

3.43 The 1994 policy required departments and agencies to conduct internal audits of IT security at least once every five years. The 1995 operational standards for IT security supported that policy requirement. The scope of internal audit work was to include the effectiveness of IT security measures and compliance with the policy and its operational standards. Departments and agencies were required to submit their internal audit reports to the Treasury Board Secretariat.

3.44 We looked for internal audit reports on IT security submitted to the Secretariat in the last five years. Of some 90 departments and agencies subject to the Government Security Policy, only 10 had submitted reports. The majority of departments (almost 90 percent) had not complied with the policy requirement.

3.45 We found no evidence of any follow-up by the Secretariat to ensure that internal audits of IT security were carried out periodically. Nor did we see any indication that the Secretariat had reviewed and analyzed the findings of the 10 reports that were submitted to inform itself about the state of IT security in those departments and agencies.

3.46 The 1994 policy and the IT security standards also required that departments and agencies ask the RCMP for an independent review of their IT security practices at least once every five years. Further, RCMP reviews were to be conducted more often where information systems contained classified information and information designated as extremely sensitive.

3.47 We found that only 14 departments and agencies have had the RCMP review their IT security practices since 1996. About 85 percent of the departments that are subject to the policy failed to comply with this requirement.

3.48 The 1994 policy required that at the Treasury Board Secretariat's request, the RCMP submit a report to the Secretary of the Treasury Board on the state of IT security in government, based on its reviews. The last time the RCMP submitted such a report was in 1995; the Secretariat has not requested any reports since then.

3.49 The significance of these gaps goes beyond non-compliance with government policy. In the absence of departmental internal audit reports and RCMP annual reports, the government did not have the information it needed to assess the overall state of IT security. Without that information, it was not positioned for effective monitoring and oversight of IT security across departments.

Revised provisions do not require timely oversight

3.50 The 2002 Government Security Policy includes a number of changes in the requirements for monitoring and oversight. The Secretariat is now responsible for monitoring the implementation of the policy and the state of security in government, including IT security, and reporting to the Treasury Board.

3.51 The revised policy requires departments and agencies to actively monitor their security programs, conduct internal audits of them, and report the results to the Treasury Board Secretariat. However, the requirement for an internal audit at least once every five years has been removed. The policy is not clear on what constitutes "active monitoring." The operational standards have yet to be updated and no other guidance is provided.

3.52 The main policy document no longer makes the RCMP responsible for reviews of IT security in departments and agencies. As a preventive measure against security threats, departments are required to have an independent third party assess their security programs and practices periodically. Once again, there is no longer a requirement that stipulates the minimum frequency of such independent assessments.

3.53 Given the importance of IT security and the potential impact of threats to it, we would expect that oversight would be strengthened as the Government Security Policy was revised. However, this has not been the case.

3.54 Under the 1994 policy, a majority of departments and agencies did not comply with the requirement on the minimum frequency of internal audit and RCMP review of IT security. Now that the required frequency of audits and independent assessments is no longer stipulated, there is less assurance that IT security practices in departments and agencies will be monitored adequately.

3.55 Furthermore, many departments and agencies face the challenge of ensuring that their internal audit groups have the capacity and capability to comply with the recently adopted Policy on Internal Audit. In the past, the RCMP provided the IT security review service to departments and agencies at no charge except its overtime and travel costs. The third-party assessments of IT security will have to compete against other funding priorities of departments, as individual departments and agencies have received no new funding to implement the 2002 security policy.

3.56 As part of overall monitoring, the Secretariat is required to produce a midterm report to the Treasury Board on the effectiveness of the Government Security Policy. Because the policy just came into effect, no reporting is required before summer 2004.

3.57 In an enterprise as large and diverse as the Government of Canada, it is not unreasonable to update information on the state of IT security every 24 months. However, since the 1994 revision of the Government Security Policy, government-wide monitoring and oversight have been limited. As a result, there is little baseline information on the state of IT security across government.

3.58 Without adequate baseline information, it is hard to identify potential gaps in the security of IT infrastructure across the government. It is also difficult to determine whether IT security policy, standards, and guidance are sufficient and appropriate. Furthermore, appropriate baseline data will be essential to measure the progress of IT security practices in the government over time.

3.59 Senior management in government acknowledges the importance of IT security. Information systems and assets are an important part of our critical infrastructure. Further, IT security is a top issue in the Government On-Line initiative to connect Canadians and provide government services on-line. We are concerned that appropriate baseline information on the state of IT security across government will not be available or reported before 2004.

3.60 **Recommendation.** The government should collect and analyze information on information technology security in departments and agencies to assess the state of security across the government sooner than its security policy presently requires, in order to do the following:

- set priorities for developing standards and practice guidance;
- establish a baseline for determining required improvements and measuring future progress; and
- address key gaps soon enough to support the Government On-Line initiative.

The government should also consider defining in the Government Security Policy how frequently internal audits and independent assessments of IT security practices are to be conducted.

Government's response. The Treasury Board Secretariat (TBS) generally concurs with this recommendation. In the course of renewing the Government Security Policy, TBS has consulted widely and extensively with departments and agencies on departmental IT security capabilities and requirements and agrees that more systematic collection of information is desirable. In February 2001, the government established the Office of Critical Infrastructure Protection and Emergency Preparedness (OCIPEP), which will provide a central capacity for "real time" monitoring and remediation strategies with respect to network and departmental IT security incidents. In addition, TBS is starting the development of new assessment tools for use by departments to continually assess and monitor their IT security posture and security management practices. TBS is of the view, however, that departments are in the best position to determine when and how frequently internal audits and independent assessments of their IT security posture are to be conducted, as is stated in the renewed Government Security Policy.

Government-wide support

Revised security policy addressed gaps and overlaps in support roles

3.61 As part of the governance framework, the 2002 Government Security Policy states the responsibilities of 10 departments and agencies that act as lead security agencies.

3.62 The policy assigns the same responsibilities to a number of the lead departments and agencies that all along have provided support for IT security. For example, the RCMP is still responsible for providing advice on how to conduct reviews, inspections, and audits of IT security.

Threat and risk assessment—A process that allows an organization to evaluate the value of an application and its inherent security risks.

3.63 The 2002 Government Security Policy addressed duplications that existed in the 1994 policy. Under the revised policy, the RCMP is the only agency responsible for providing advice on the process of conducting threat and risk assessments. Roles in training and awareness have also been clarified. The RCMP develops and provides IT security training and awareness for systems users and technical support staff as well as for IT security officers. The Communications Security Establishment is responsible for specialized and technical training in areas such as communications security, network vulnerability, and other technical safeguards. Moreover, the revised policy clarifies the respective responsibilities of several lead agencies in representing the federal government on national and international committees involved in security.

Business continuity plan—A plan for resuming essential business activities following the loss or serious deterioration of an organization's facilities or work conditions.

3.64 The policy sets out new responsibilities for support as well. For example, the Office of Critical Infrastructure Protection and Emergency Preparedness (OCIPEP) is assigned to be the centre for reporting by departments on real or imminent cyber threats and for issuing alerts and advisories to departments and agencies. Among other support roles, the OCIPEP provides advice on developing and maintaining business continuity plans.

Some support roles need more time to become fully effective

3.65 Many support roles defined under the revised policy have existed for some time. In those cases, the lead agencies already have the capabilities and are in a position to provide the support. Typical examples include

- the Communications Security Establishment, which evaluates cryptography products and certifies private sector testing and evaluation facilities,
- the Canadian Security Intelligence Service, which investigates and analyzes threats to national security, and
- the RCMP, which develops IT security technologies and countermeasures against cyber crime.

3.66 Responsibilities for some support roles have been assigned only recently. For example, OCIPEP is a new agency formed in February 2001 to develop and implement a comprehensive approach to protecting Canada's critical infrastructure. It carries out several new, essential functions that support IT security in government. In addition to those already described, it is to help departments and agencies assess vulnerabilities in their computer networks and to offer advice on protecting information systems and infrastructures critical to government operations. As a new organization, it has defined and obtained the resources it needs to discharge its mandate, but it will need time before it can support others fully as a lead security agency. In addition to recruiting specialized staff, much of its support role depends on effective co-ordination and co-operation with departments and agencies, which will take time to develop.

3.67 Sharing good practices helps departments and agencies learn of security solutions in other departments and gives them the benefit of experience with those solutions. The government has a number of forums for sharing information on IT security, and sometimes the participants share practices and solutions in those forums. Nevertheless, the revised policy has not defined a support role for capturing good IT security practices and sharing and promoting them across government.

3.68 The 2002 Government Security Policy does not stipulate that the support function will be assessed. In our view, it is worthwhile to review the adequacy of the support provided by the lead security agencies so the government can target additional efforts and investments where needed to improve support to departments and agencies.

3.69 **Recommendation.** The government should plan to review the adequacy of the support that the lead security agencies provide for IT security in order to improve that support where necessary. In addition, the government should explore and define ways to capture and share good IT security practices among departments and agencies.

Government's response. The 10 December 2001 Budget provided significant investments in the lead security agencies for a wide range of security-related initiatives, including IT security; for its part, the Government Security Policy clarifies their roles and responsibilities. The government recognizes the need to explore and define ways in which IT security best practices can most effectively be identified and disseminated to departments and agencies. Educational programs and learning events offered by the Royal Canadian Mounted Police and the Communications Security Establishment (including the latter's annual international symposium) are important to the government security, IT, and program communities. They supplement the rich selection of courses and conferences offered by the private sector and professional associations. In addition, the recently created OCIPEP has already demonstrated its informational role by disseminating the latest information on threats, trends, and best practices, by way of regular conference calls, Web site services, and timely advisories. Plans are under way by the Treasury Board Secretariat to develop a repository of recommended best practices as well as an IT security portal to facilitate the regular exchange of information among departments and agencies.

Departmental governance and risk management

3.70 In addition to examining IT security issues in the government as a whole, we reviewed IT security practices at four departments and agencies, namely Fisheries and Oceans Canada, Human Resources Development Canada (HRDC), Industry Canada, and the National Parole Board.

3.71 The four entities together provided a variety of operating environments. In HRDC and Industry Canada, the management of technology infrastructures is centralized, while Fisheries and Oceans Canada takes a decentralized approach. The National Parole Board has a strategic partnership with Correctional Service Canada and relies on that organization for its network systems and computer operations.

3.72 The purpose of our review was to provide an insight into current IT security practices in government (see About the Audit). It was not intended as the basis for drawing conclusions at the departmental or the government-wide level and we have drawn no such conclusions.

Need to update policies and improve implementation of departmental governance framework

3.73 A comprehensive policy on information technology security establishes the framework for ensuring that information assets and the technology infrastructure are properly protected. With the rapid pace of change in information technology, we would expect IT security policies and standards to be not only developed but also kept current.

3.74 The Government Security Policy and the related operational and technical standards set out the minimum requirements that departments and agencies must meet. They are required to build on these baseline standards and develop their own policies that meet the specific security needs of their operations.

3.75 All four departments we examined have IT security policies. HRDC used the Government Security Policy and the related standards to develop its own policies and standards that would guard against the threats to its information assets and operations. We noted that the policies had been updated and efforts made to keep them current.

3.76 The three other departments rely primarily on the Government Security Policy and standards. Management decided to accept them as appropriate for their organizations, but we found no documents or analysis to support that decision. As already noted, until February 2002 the last update of the Government Security Policy had been in 1994, and the standards predate many recent developments in the use of the Internet. Both Industry Canada and Fisheries and Oceans Canada issue security bulletins on specific IT issues. However, they prepare them on an ad hoc basis. The bulletins may not be broad enough to ensure that with the security policies and standards, they constitute an up-to-date and comprehensive set of policies and standards. We also noted that departments have identified policy gaps but have yet to develop policies that address them.

3.77 The Government Security Policy stipulates that deputy heads are accountable for security in their areas of responsibility. The policy also requires that each department and agency appoint a departmental security officer and an IT security co-ordinator.

3.78 We found that all four departments have appointed IT security co-ordinators with some form of reporting relationship to the departmental security officers. However, only in HRDC and Industry Canada do the co-ordinators have defined roles and responsibilities to facilitate developing, implementing, and enforcing IT security policies.

3.79 In Fisheries and Oceans Canada, the IT security co-ordinator is responsible for establishing the corporate IT security program. However, he has limited authority to ensure compliance. We noted that compliance in the Department's Pacific Region was selective. For example, the Region implemented certain aspects of the policy on network passwords but not the requirement to change those passwords every 90 days. There may have been an appropriate justification for this but it was not documented, nor was it evident to us.

3.80 The National Parole Board has a strategic partnership with Correctional Service Canada and relies on it for its networks and computer operations. The effectiveness of its IT security program is thus dependent on its partner. In this partnership arrangement, however, Correctional Service Canada manages sensitive parole data owned by the Board. We found that the Board has not articulated its IT security requirements to its partner or sought assurance that its information assets are safeguarded adequately.

Risk assessments tend to have a single focus

3.81 The IT security community has long acknowledged that IT security practices revolve around risk management. It is neither feasible nor cost-effective to eliminate all risks or threats to information assets. Moreover, like any priority, IT security has access to limited resources; risk assessments help direct resources to areas that warrant them. We therefore looked in the four departments for processes and practices to identify, assess, and manage risks. We also asked about their business continuity plans, which would help them continue operating if normal operations were interrupted for any reason, including failure or unavailability of information systems.

3.82 The 1994 Government Security Policy set an expectation that new systems were to undergo sensitivity analysis and threat and risk assessment (TRA), with a specific focus on IT security. In addition, the RCMP has developed guidelines for departments and agencies on conducting TRAs.

3.83 We found that all four departments have prepared TRAs but only on an ad hoc basis (see also the section of this chapter beginning at paragraph 3.92). The assessments tend to focus on a single application or, in some cases, on a major change in IT infrastructure. We were not able to find any analysis that considered threats and risks to departmental IT security overall. The departments' threat and risk assessments were conducted at different times. Business environments change from time to time along with technology. An analysis with a broad perspective can highlight gaps and duplication of efforts. It can also ensure that concerns about business impacts and privacy have been addressed adequately. Although such broad-based analyses are not required by the Government Security Policy and standards or by the IT security policies of the four departments, in our view conducting them periodically would add strength to departmental IT security.

3.84 A business continuity plan (BCP) is an important risk management tool that allows a department to plan for business disruptions and to recover from them. While preparing for the Year 2000 computer problem, most organizations also developed BCPs. In our December 1999 Report, we recommended that departments test those plans and keep them up-to-date.

3.85 Our audit confirmed that in 1999, all four departments developed business continuity plans in preparing for Year 2000. However, they have not updated the plans since then. In anticipation of the 2002 Government Security Policy and in response to a directive issued after 11 September 2001, all four departments are preparing to update their plans. We also noted that none of the departments have conducted periodic tests of their business continuity plans.

3.86 Fisheries and Oceans Canada is updating its contact list and determining the resources it needs to maintain its business continuity plan and update the plan regularly. In summer 2001, Industry Canada created a new business unit to be responsible for its BCP; the plan will take into account various business units and locations of the Department across Canada. HRDC is updating and centralizing all local and detailed business continuity plans in a single corporate database. The individual plans will eventually be rolled up into a corporate plan. The National Parole Board has developed a draft framework for updating its plan.

No formal program for awareness training in information technology security

3.87 Awareness training in IT security is an important step in implementing an IT security program. All employees need to understand the sensitivity of the information they handle, the potential threats, and their responsibility to minimize the threats. A program of training in IT security awareness is a way to help employees understand the requirements of their departmental IT security policies and the potential impact of non-compliance on the security of their information assets.

3.88 A typical awareness training program includes the following:

- holding security training sessions and seminars;
- giving security briefings and presentations;
- disseminating a security handbook;
- providing information on a Web site and Intranet;
- distributing pamphlets, videos, and posters;
- issuing security bulletins and reminders; and
- using screen savers and login banners.

3.89 We found that HRDC has a security awareness training program that includes most of those elements. The three other departments have some of the elements but have not established a formal program of ongoing awareness training.

3.90 The practices we observed in IT security governance and risk assessment in the four departments are symptoms of potential weaknesses in IT security practices across government. In our view, they merit consideration in the upcoming update of IT security operational standards.

3.91 **Recommendation.** The government should consider providing further guidance in its update of information technology security standards to ensure that departments and agencies have appropriate frameworks for governance of IT security and for management of security risks. Considerations should include the need to keep departmental policies up-to-date; the need for periodic, broad-based risk assessments; and the need for a formal program of employee awareness training.

Government's response. The government agrees with this approach, which is reflected in the renewed Government Security Policy. Over the next few months, the Treasury Board Secretariat will be working with the lead security agencies to communicate the GSP and departmental obligations, including the need for employee awareness and training. The RCMP already provides IT security awareness and specialized training, on demand.

Managing security practices in departments

Early consideration of information technology security needed

3.92 A key step in any IT security program is to develop and practise effective control of IT threats and risks. Preventive controls are most effective when security concerns are considered and dealt with early on in designing new business programs or developing and changing information systems. Further, timely and due regard to security minimizes costs in the long term. At the four departments, we looked for practices that support these principles and for some essential controls that various industry standards for IT security support.

3.93 The 1994 Government Security Policy required that system development start with a sensitivity analysis of a contemplated IT system, followed by a threat and risk assessment that supports all key development decisions, especially decisions about security. The revised policy requires that departments certify and accredit information systems before they begin operating and that they practise sound configuration management of systems and their safeguards.

3.94 Our audit showed a mix of actions taken by the four departments and agencies, with mixed results. All four have conducted ad hoc threat and risk assessments (TRAs) of some new systems and some infrastructure changes. Until recently, none had a policy requiring TRAs at the start of a system development life cycle. Moreover, departments have not defined or provided guidelines on how to identify an application development or infrastructure change that is substantive enough to warrant a TRA. Decisions to conduct assessments were subjective and ad hoc. As a result, senior management does not have full assurance that threat and risk assessments were conducted where needed and that cost-effective, preventive controls were considered and put in place right from the start.

3.95 At Industry Canada we noted a new policy that came into effect in June 2001, making threat and risk assessments mandatory in all new systems development. However, few have been conducted so far. As a large entity, HRDC has done many TRAs of changes to its systems.

3.96 We reviewed several threat and risk assessments to look for cost analyses of options, including the proposed option, and management's subsequent acceptance of residual risks. We found no evidence that cost implications had been considered in the TRAs and that management had approved the proposed option.

3.97 It is a generally accepted security practice to allow employees access to a system only as needed to carry out their assigned duties. Controls to prevent unauthorized access to applications or network systems include defining and implementing access rights and privileges and controlling access through user authentication, often by passwords.

Access privilege—The extent to which an individual or device can view, add, change, or delete data on a computer system.

3.98 We found that the management of access privileges was spread throughout each department, and those privileges were not reviewed periodically. The general mentality, especially among the users, is that broader access is more efficient for day-to-day operations. In configuring new applications, the principle of access as needed is often not applied stringently, a problem further compounded by the use of diverse and incompatible hardware platforms and applications that have evolved over time. Consequently, access privileges can be fragmented across different applications and technology platforms.

3.99 Password management is not trivial but essential. We found in many cases that passwords are not changed regularly. In some cases, when employees leave the organization or move on to new assignments, the passwords to which they had access are not changed or cancelled promptly. In some other cases, the organization does not use rules-based, strong passwords—with rules, for example, that set a minimum number of characters, require the use of special characters, and forbid the use of default passwords or common words. Furthermore, most employees have several passwords to access various networks and applications, which can lead them to be less vigilant about changing their passwords and keeping them confidential. In response to what it found in one of its security reviews, HRDC has a project under way to streamline password management across the Department, irrespective of location or system.

Remote access—Access to a system or network device from a distance, using telephone lines or the Internet.

3.100 Fisheries and Oceans Canada has no department-wide policy for minimum security over remote access to departmental systems, and many employees use remote access. An April 2000 internal audit report noted that about 2,500 staff accessed the Department's networks from outside office premises. Over 1,800 employees accessed the networks using computer equipment not owned by the Department. Equipment that the Department does not own is not subject to its configuration control and could introduce additional risks and vulnerability to its networks. The internal audit also noted that delivery of remote access differed from one region to another.

3.101 We visited Fisheries and Oceans Canada in its Pacific Region as well in the National Capital Region. In the Pacific Region, we found no policies or procedures governing remote access. Employees are granted the same access to network services from a remote location as they have on departmental premises. In our discussions, regional management acknowledged that global granting of remote network privileges not only increases the risks of compromising its network security but also carries a significant cost. As we concluded our visit in December 2001, the Region was considering developing a policy to reduce the cost of toll-free dial-up access to its networks.

Needs to broaden ongoing monitoring

3.102 Effective IT security programs include detective as well as preventive controls. Detective controls help to verify whether preventive controls function as planned. They can detect unauthorized access or unusual patterns of activity so that timely corrective action can be taken. Detective controls often take the form of ongoing monitoring—for example, monitoring system logs, installing intrusion detection sensors and analyzing their results, and conducting security sweeps for compliance with policies. Automated tools are increasingly available to management and security officers for analyzing log traffic.

3.103 During the audit, we looked for detective controls in the four departments. We found that in monitoring logs, they tend to focus on acceptable use of the Internet. This was particularly evident in the three larger departments, including the regional offices we visited. They monitored logs on an ongoing basis to ensure that employees had not abused Internet privileges on departmental systems. The three departments have procedures to address any inappropriate use by staff. HRDC analyzed logs to identify access to systems whose security was of specific concern to program managers so it could follow up on misuse and abuse of the data.

3.104 In all four departments, we noted that IT security officers heed IT security alerts and are on guard against virus attacks. Departmental security practices include measures to protect information assets. During our regional visits, we observed two departments taking steps to ward off a virus attack.

3.105 However, we found instances where the system logging function was not activated. We noted instances where the logs were not analyzed systematically. Threats to information technology security are not limited to employees accessing inappropriate Web sites or to viruses and other forms of malicious code. A department needs to have proper safeguards against external attacks that target it specifically as well as internal misuse or misconduct, unintentional or otherwise.

Intrusion detection system—A system that detects potentially hostile traffic and warns management.

3.106 Intrusion detection systems are a detective control that helps identify potentially malicious network traffic. In 1999 the Communications Security Establishment (CSE) commissioned a network threat assessment study of six departments, using intrusion detection systems. The CSE concluded that external threats to government information systems were real and appeared to be global, and that automated attack tools had been used. In September 2000, the CSE recommended that departments implement a network intrusion detection capability. Of the four departments we audited, only Industry Canada has developed some internal capability for intrusion detection.

3.107 A security sweep is an inspection to verify that employees are following security procedures. The procedures include making sure that they log off their computers when not using them and at the end of a work day, that they secure computers physically, and that removable media are properly protected. We noted that the departments do not conduct regular security sweeps.

3.108 Good IT security also includes following predefined steps to respond to and report security incidents. When an IT security incident occurs, staff have to recognize it as an incident, react quickly to correct the situation, and report it to the appropriate security officers. This requires that departments have procedures established and personnel trained to take decisive and appropriate action.

3.109 In none of the four departments did we find a definition of what constitutes an IT security incident. Declaring that an incident is a security incident is left to staff and managers, and there are no procedures established to ensure that staff will react appropriately, consistently, and promptly.

3.110 In each of the four departments, responsibility for responding to an incident is shared by systems, network, and business program staff. Industry Canada has a team of IT and security staff that communicates by telephone as needed. The IT security manager also receives an encrypted electronic mail alert when the network engineers detect a problem.

3.111 Managing IT security practices through ongoing monitoring helps departments and agencies detect any attack on their systems and determine whether they have been compromised. Although the ongoing monitoring in the four departments may not be representative of the government, it is symptomatic of likely gaps between the revised Government Security Policy and the IT security practices of departments and agencies. In our view, it would be appropriate to identify any significant gaps and consider them when implementing the revised policy.

3.112 **Recommendation.** The government should identify any significant gaps between present information security practices in departments and the 2002 Government Security Policy and address them in its plan for implementing the policy.

Government's response. Lead agencies are actively engaged in identifying gaps between departmental security practices and the Government Security Policy, and are working with the Treasury Board Secretariat to develop incident response and reporting procedures; IT security (ITS) readiness levels; an organizational ITS self-assessment guide; certification and accreditation guidelines; and secure service profiles for critical business requirements.

Audits and periodic reviews

Audit and independent reviews of information technology security have been limited

3.113 Audits and independent reviews provide assurance to management that departmental operations meet program objectives; they also highlight areas that need to be improved. Audits and independent reviews of IT security serve as periodic checks on the state of IT security in a department.

3.114 The 1994 Government Security Policy required that departments conduct internal audits of IT security at least once every five years. We found that only Fisheries and Oceans Canada and HRDC have audited IT security department-wide. The two other departments have not complied with the policy requirement.

3.115 A 1995 audit of security at Fisheries and Oceans Canada included IT security as a specific component. A second audit of IT security was completed and a report issued in 2000 that noted some of the same weaknesses as in 1995—for example, weak controls over remote access and equipment connected to the network. The Department has prepared an action plan to address the audit recommendations. HRDC carried out a broad-based audit of IT security in 1999, and the audit report made a number of observations and recommendations. For example, it noted that procedures for IT security varied; and roles, responsibilities, accountabilities, and authority for security were unclear. HRDC has prepared an action plan and is addressing those observations.

3.116 Traditionally, the RCMP conducted independent reviews of IT security for departments and agencies. The 1994 Government Security Policy stipulated that departments were to request RCMP reviews of their IT security programs at least once every five years, and more often where programs and systems involved classified and/or extremely sensitive information.

3.117 Contrary to the policy, however, no RCMP reviews of IT security practices have been conducted at Fisheries and Oceans Canada or Industry Canada in the last five years. The RCMP conducted a partial review of the National Parole Board as part of a mandatory requirement before it would allow the Board access to some of its law enforcement systems. HRDC was the only one of the four departments that had requested an RCMP review, but the last one was conducted in 1997.

Few technical tests to check for network vulnerabilities

War dialing—A test that uses automated tools for dialing a set of telephone numbers to find unsecured modems.

Vulnerability assessment—A set of tests that looks for vulnerabilities in network systems before a security breach occurs.

3.118 A number of techniques are available for departments to test the effectiveness of security for their network systems. The techniques are an essential part of a comprehensive program for managing IT security. They include testing for unauthorized modems by automated dialing of telephone lines (war dialing) and checking for weak access points in network systems (vulnerability assessments). A form of audit and monitoring, the tests can help identify weaknesses and potential vulnerabilities that could be compromised. Periodic testing is a preferred IT security practice.

3.119 We found that two of the four departments have done little or no technical testing of their network systems for unauthorized modems and potential vulnerabilities; Industry Canada did some limited testing for network vulnerabilities. HRDC has acquired technical tools to conduct vulnerability assessments.

3.120 Our examination showed that audit and independent review of IT security are weak. Furthermore, most departments and agencies have not complied with policy requirements. In our view, the revised Government Security Policy needs to address this deficiency to enhance IT security across government.

3.121 **Recommendation.** The government should consider setting a minimum frequency for departments to conduct periodic assessments of information technology security practices and requiring in its technical standards that departments conduct vulnerability assessments of their systems.

Government's response. While the government agrees in principle with this recommendation, the Government Security Policy leaves it to the deputy head of a government institution to determine the frequency of such periodic assessments. Through the IT security standards development process, the Treasury Board Secretariat and lead security agencies will be developing guidance on vulnerability analysis requirements and optimal frequency of periodic assessments. These will be based on best practices with respect to risk management and availability of resources.

Assessing network vulnerabilities

Technical tests identified potential vulnerabilities

3.122 We conducted war dialing on a sample basis in some departments and remote testing for network vulnerabilities at their Internet points of presence. In both cases, we looked for vulnerabilities but did not exploit them to penetrate departmental networks. We did not test from the departments' internal network systems for network vulnerabilities.

3.123 We provided details of our test results directly to the departments so they could address any potential weaknesses we had identified. The test results presented here are global and not attributed to individual departments.

3.124 For the war dialing tests, we selected 10,000 telephone numbers in the National Capital Region and one other region of the departments and used automated tools to search for modems. We found 97 devices that could serve as points of access to departmental networks. A subset of those devices could be unauthorized modems that present a high risk to the departments. We provided the departments with details for follow-up.

3.125 We conducted vulnerability assessments of 260 host systems, located using information provided by the departments. Using a combination of different technical tools, we gathered information about the systems and analyzed it for vulnerabilities that could allow unauthorized access to them.

3.126 We found that 85 of the 260 systems contained vulnerabilities, most of which could allow the systems to be readily compromised by a targeted cyber attack. We were concerned by one weakness in particular that posed an imminent threat, and we reported it immediately to that department. We provided all other data and the results of our analysis to the departments after completing the tests.

3.127 Although we found access points that could readily be exploited, we did not attempt to penetrate the systems. As a result, we cannot conclude what the impact of such weaknesses would be. Examples of weaknesses we found are provided in "Our vulnerability assessments identified weaknesses."

3.128 The results of our tests underscore the value of audits and independent assessments. They also support our recommendation that the government include war dialing and vulnerability assessments in the operational and technical standards it is developing for IT security.

Our vulnerability assessments identified weaknesses

Outdated applications and unprotected systems

Several host systems used outdated applications known to contain vulnerabilities that could be exploited to gain unauthorized access. In one case a system administrator password was not set, thus allowing any Internet user to gain access to the system.

There are many potential abuses of unauthorized access:

- Sensitive data stored on a system can be viewed and used fraudulently.
- Data or programs can be modified or deleted.
- Access to one departmental system could allow access to another.
- Programs could be installed to attack other systems on the Internet. The attacks would appear to be initiated by the government.
- Systems could be used to share files; the government would be seen as endorsing the content of the files.

Information vulnerable to cyber attacks

Information on system set-up and user identity was vulnerable to attacks. This information could be used to plan a cyber attack or to gain unauthorized access to systems and data.

The following information was available on the systems:

- the type and version of operating system in use;
- the name of the host system;
- the configuration of the system for file sharing (did it allow "trust relationships" that would provide direct access to other systems?);
- a list of valid usernames; and
- the first and last names of users.

Conclusion

3.129 The revised Government Security Policy came into effect in February 2002, replacing the 1994 policy. The revised policy has a strong focus on IT security and is an important step in strengthening security across government. However, we observed that the operational and technical standards for IT security are still out-of-date, and plans and a timetable to update them have not been completed. The revised policy will not be fully effective without updated standards, setting out minimum requirements that departments and agencies must meet.

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Information on system set-up and user identity was vulnerable to attacks. This information could be used to plan a cyber attack or to gain unauthorized access to systems and data.

The following information was available on the systems:

- the type and version of operating system in use;
- the name of the host system;
- the configuration of the system for file sharing (did it allow "trust relationships" that would provide direct access to other systems?);
- a list of valid usernames; and
- the first and last names of users.

Conclusion

3.129 The revised Government Security Policy came into effect in February 2002, replacing the 1994 policy. The revised policy has a strong focus on IT security and is an important step in strengthening security across government. However, we observed that the operational and technical standards for IT security are still out-of-date, and plans and a timetable to update them have not been completed. The revised policy will not be fully effective without updated standards, setting out minimum requirements that departments and agencies must meet.

3.130 We also noted that departments have not complied with the 1994 policy requirement to conduct internal audits and request RCMP reviews of their IT security at least once every five years. As a result, the government does not have sufficient information on the state of IT security across departments and agencies. That information is essential to determine whether the present state of security is acceptable and to set a baseline for measuring future progress.

3.131 Our examination of four departments showed some weak IT security practices that could be symptomatic of weaknesses in other departments. They can thus indicate to the Treasury Board Secretariat and other lead security agencies where they may need to focus their management and support. Our technical tests found potential vulnerabilities that could compromise government network systems. The test results reinforce our observation that periodic audits and independent reviews of IT security are needed.

3.132 Our audit has identified a number of issues that the government needs to address to improve IT security across departments and agencies. In launching its Government On-Line initiative, the government identified security and privacy concerns as a key issue. Timely action to improve IT security is important for this initiative so that appropriate security practices can be in place to provide secure on-line access to all government services.

About the Audit

Objective, scope, and approach

The audit objective was to assess the framework for information technology security that the government has in place to protect information assets and ensure the uninterrupted delivery of services. Protecting information assets includes not only protecting the value of the assets themselves but also keeping classified and designated information confidential and safeguarding the integrity of data and information kept in electronic form.

To assess the IT security framework government-wide, we carried out our audit work primarily at the Treasury Board Secretariat. We also met staff of the Royal Canadian Mounted Police, the Office of Critical Infrastructure Protection and Emergency Preparedness, and the Communications Security Establishment.

In addition to reviewing the government-wide framework, we reviewed IT security practices at four departments and agencies: Fisheries and Oceans Canada, Human Resources Development Canada, Industry Canada, and the National Parole Board.

The four departments vary in size and collectively provide services to individuals and to businesses. They include both centralized and decentralized management of IT infrastructure. We selected them for some insight into the state of IT security in government. However, due to the diversity of their mandates and operations, including their IT infrastructures and systems, our findings cannot be considered representative and do not provide an overall view of government IT security practices. Our audit work at the departments included the National Capital Region of all four departments and the Pacific regions of Fisheries and Oceans Canada and Industry Canada.

We also conducted remote technical tests on networks of some departments to detect vulnerabilities, but we did not exploit any vulnerabilities found during the tests.

Criteria

The following general criteria were used in the audit:

- The information technology security framework should ensure that IT assets are protected and support the secure and uninterrupted delivery of government services.
- The IT security governance structure should ensure strong leadership and support from the central and lead agencies and consistent, cost-effective IT security practices across government.
- Policies, standards, and practices should be commensurate with the current state of risks and threats to IT security.
- Consistent with assessed risks and current security requirements, departmental measures and processes should prevent, detect, and respond to IT threats.
- IT security practices should be monitored and periodically reassessed, and vulnerabilities addressed.

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Report of the Auditor General of Canada to the House of Commons—April 2002

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2002

Report of the
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to the House of Commons

APRIL

Chapter 4
The Criminal Justice System:
Significant Challenges

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

The Report is available on our Web site at www.oag-bvg.gc.ca.

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Chapter

4

The Criminal Justice System: Significant Challenges

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The Criminal Justice System: Significant Challenges

Main Points

4.1 Canada's criminal justice system faces major and complex challenges. It is trying to respond to crime committed by youths; make the justice system more responsive to Aboriginal peoples; address victims' needs; remedy wrongful convictions; prevent questionable plea-bargains; deal with organized crime; adjust to court decisions on police powers; provide police with lawful access to persons, property, and information; and ensure that criminal justice agencies share information effectively.

4.2 Criminal justice agencies are responding to these challenges with initiatives that affect most of the system. They include community safety and crime prevention programs; renewed approaches to youth justice; diversion programs to keep offenders out of the formal justice system; restorative justice programs; specialized courts; strategies to deal with organized crime; and development of integrated justice information systems.

4.3 The challenges and the responses have the potential to change the system significantly. Efforts have been made through numerous liaison and co-ordinating bodies to share information and co-ordinate their policies and program delivery.

4.4 For the most part, however, each agency manages key challenges and initiatives separately. This reflects the complex and multijurisdictional nature of the system. The agencies are accountable to federal and provincial legislative bodies and often to different ministries of the same government; some are accountable to municipal governments. Courts, which play a key role in the system, are independent from government.

4.5 The agencies and elected bodies may have different interests and priorities. As a result, it is difficult for the system to have an overall vision and common objectives and devise comprehensive strategies and co-ordinate their implementation. Further, federal initiatives are often developed and funded in response to pressing issues rather than on an integrated and sustained basis.

4.6 According to federal government agencies, the system's capacity to maintain a high standard of public safety is under severe strain. We believe the interrelationship of the challenges and initiatives and their collective impact need to be assessed. Without that knowledge, it is difficult to ensure that the initiatives are working together effectively rather than at cross purposes. Carrying out such an assessment may be difficult because there are major gaps in information.

Background

4.7 The formal criminal justice system is a complex network of independent but procedurally connected police, prosecutors, courts, correctional agencies, and parole boards. It costs governments at all levels at least $10 billion a year. The federal government estimates that the cost of crime to Canadians may be as high as $46 billion a year, when the impacts on victims and society are considered. Canadians responding to a 1999 survey by Statistics Canada said they had experienced about 8.3 million incidents that they believed were criminal. In 2000, police reported about 2.5 million *Criminal Code* crime incidents.

Federal agencies have responded. The Department of Justice Canada, Solicitor General Canada, Correctional Service Canada, and Statistics Canada have generally agreed with our observations. The specific views of each are presented in the responses at the end of the chapter.

Introduction

4.8 Canada's criminal justice system is highly complex: federal, provincial, territorial, and municipal agencies and organizations all play a part, but no agency or jurisdiction has control or ownership of the entire system. It is subject to continual public scrutiny and frequent controversy. Each apparent failure can shake public confidence in the system and lead to calls for change.

4.9 Governments in Canada spend at least $10 billion each year on the criminal justice system. The actual cost of crime—including the costs of private security, insurance, and impacts on victims—is much higher. How much higher is difficult to estimate reliably, but the federal government uses an estimate of about $46 billion a year.

Federal and provincial responsibilities

4.10 The formal criminal justice system consists of the police, prosecutors, the courts, correctional services, and parole boards. Under Canada's Constitution, the provinces and the federal government share responsibility for the criminal justice system. Parliament is responsible for establishing criminal law and criminal procedure. Provinces have primary responsibility for enforcing the *Criminal Code*, prosecuting criminal charges, and administering trial courts. The Royal Canadian Mounted Police (RCMP) acts as a federal police force. Under contractual agreements, it also provides policing services to all provinces and territories except Quebec and Ontario, who have their own provincial police forces. Further, through various arrangements it provides services to certain municipalities, airports, and First Nations communities. Generally, larger municipalities have their own police forces.

4.11 Both federal and provincial correctional authorities are responsible for administering sentences and rehabilitating offenders. Federal authorities administer sentences of two years or longer. Provinces are responsible for offenders sentenced to terms of less than two years and for most young offenders. The National Parole Board makes conditional release decisions for offenders held in federal and territorial institutions and in provincial facilities of seven provinces (Quebec, Ontario, and British Columbia have their own parole boards for offenders in their custody). Exhibit 4.1 summarizes the major federal responsibilities.

4.12 Aside from the constitutional division of responsibility, each criminal justice agency has its own legislative mandate. Although independent, each agency must rely on the others to move offenders through the system properly. The criminal justice system is thus a group of independent but procedurally connected agencies.

4.13 The federal government estimates that a total of $10 billion is spent each year on the criminal justice system. In 1996–97 the federal share was about 25 percent or $2.5 billion (Exhibit 4.2). About 120,000 people worked in the criminal justice system that year, including 54,300 police officers and 22,600 custodial personnel in adult correctional facilities.

4.14 A March 1999 federal government report indicated that of the charges laid in 1996–97, about 25 percent were laid by the RCMP. About 12 percent of cases were prosecuted by the Department of Justice Canada. Most criminal proceedings occur in provincially administered courts. About 50 percent of incarcerated offenders are held in federal correctional facilities. The National Parole Board makes about two thirds of parole decisions and almost all decisions on applications for pardons.

Exhibit 4.1 The major federal responsibilities in the criminal justice system

Lawmaking	Parliament
Policy	Department of Justice, Solicitor General Canada, RCMP, Correctional Service Canada, and National Parole Board
Crime prevention	Department of Justice, Solicitor General Canada, RCMP, Correctional Service Canada, and National Parole Board
Investigation	RCMP as federal, provincial, and municipal police forces
Prosecution	Department of Justice
Courts	Supreme Court of Canada and other courts
Legal aid	Department of Justice
Managing sentences	Correctional Service Canada
Conditional release decisions and pardons	National Parole Board
Rehabilitation and reintegration	Correctional Service Canada and National Parole Board

Exhibit 4.2 Estimated expenditures by governments on the criminal justice system, 1996–97

Area of spending	Total ($ billion)	Federal (%)	Provincial/ territorial (%)
Police	5.86	20	80
Courts	0.86	9	91
Prosecutions	0.26	17	83
Adult corrections	1.97	49	51
Youth corrections	0.51	29	71
Legal aid	0.50	17	83
Total	**9.96**	**25**	**75**

Source: Canadian Centre for Justice Statistics and the Department of Justice. Total and provincial and territorial legal aid expenditures may be underestimated.

4.14 A March 1999 federal government report indicated that of the charges laid in 1996–97, about 25 percent were laid by the RCMP. About 12 percent of cases were prosecuted by the Department of Justice Canada. Most criminal proceedings occur in provincially administered courts. About 50 percent of incarcerated offenders are held in federal correctional facilities. The National Parole Board makes about two thirds of parole decisions and almost all decisions on applications for pardons.

Exhibit 4.1 The major federal responsibilities in the criminal justice system

[illegible]	Parliament
[illegible]	Department of Justice, Solicitor General Canada, RCMP, Correctional Service Canada, and National Parole Board
[illegible]	Department of Justice, Solicitor General Canada, RCMP, Correctional Service Canada, and National Parole Board
[illegible]	RCMP as federal, provincial, and municipal police forces
[illegible]	Department of Justice
[illegible]	Supreme Court of Canada and other courts
[illegible]	Department of Justice
[illegible]	Correctional Service Canada
[illegible]	National Parole Board
[illegible]	Correctional Service Canada and National Parole Board

Exhibit 4.2 Estimated expenditures by governments on the criminal justice system, 1996–97

[illegible]	[illegible]	[illegible]	[illegible]
Police	5.86	20	80
Courts	0.86	9	91
Prosecutions	0.26	17	83
Adult corrections	1.97	49	51
Youth corrections	0.51	29	71
Legal aid	0.50	17	83
[illegible]	[illegible]	[illegible]	[illegible]

Source: Canadian Centre for Justice Statistics and the Department of Justice. Total and provincial and territorial legal aid expenditures may be underestimated.

Focus of the study

4.15 The purpose of this chapter is to identify the key challenges facing the criminal justice system and how the system is responding to them. It also identifies areas that the Office will consider examining in the future. We focussed on the main federal agencies responsible for criminal justice: the Department of Justice, Solicitor General Canada, the RCMP, Correctional Service Canada, and the National Parole Board. About the Study at the end of this chapter provides further information.

Observations

Challenges to the criminal justice system

4.16 The criminal justice system is trying to address simultaneously the needs of significant groups who come into contact with it. They include youths, Aboriginal peoples, women, the poor, ill and aging offenders, victims, and the wrongfully convicted. Each of these groups presents the system with unique difficulties; together, they represent a significant challenge. Further, for the most, each agency in the system manages key challenges and initiatives separately.

4.17 The available information only partially describes the challenge. The data are not adequate to examine how the problems across the criminal justice system are related. For example, the government cannot readily determine how often the same individuals are counted and their needs addressed as members of more than one group—youths, Aboriginal people, women, and the poor.

Issues relating to significant groups

4.18 **Youths**. Youths aged 12 to 17 made up 8 percent of Canada's total population in 2000, according to Statistics Canada, but were involved in about 21 percent of the about 2.35 million *Criminal Code* incidents reported (excluding traffic and drug-related offences). About 33 percent more youths were charged with violent crime in 2000 than 10 years ago, an increase of 7 percent after four years of decline. Youth courts heard about 102,000 cases in 1999–2000, involving 60,000 youths.

4.19 What the data mean and what should be done to address youth crime are subjects of considerable debate. The 1994 review of the *Young Offenders Act* by the Federal/Provincial/Territorial Task Force on Youth Justice found the following:

- a lack of public confidence in the system;
- a need to focus resources on serious youth crime while dealing with less serious crime in less formal ways;
- inconsistencies across jurisdictions; and
- a need for a program for Aboriginal young offenders.

4.20 In 1997, the House of Commons Standing Committee on Justice and Legal Affairs concluded that public concerns about youth crime were misperceptions—that most youth crime is minor and temporary; only a minority of young offenders are involved in serious and persistent criminal acts.

4.21 The Department of Justice concluded in February 2001 that the youth justice system under the *Young Offenders Act* was not working well. It noted the following:

- too many young people are charged, and often incarcerated, with questionable results;
- procedural protections for young people are not adequate and too many youths end up serving sentences in custody with adult offenders;
- the overarching principles of youth justice are often unclear and conflicting;
- there are disparities and unfairness in youth sentencing; and
- interventions are not appropriate to the seriousness of the offences and not meaningful enough to individual offenders and victims, nor do they adequately support rehabilitation and reintegration.

4.22 **Aboriginal peoples.** In 1996, the last year for which consistent data are available, about 2.8 percent of the Canadian population identified themselves as Aboriginal people. In April 2000 a report was prepared for the Department of Justice on the overrepresentation of Aboriginal peoples in the justice system. The report indicated that in 1996, 17 percent of inmates in adult provincial and territorial correctional facilities and in federal facilities identified themselves as Aboriginal people. About 50 percent of the 5,100 inmates of provincial adult institutions in the Prairie provinces were Aboriginal people.

4.23 The relationship between Aboriginal peoples and the Canadian criminal justice system has been the subject of several public inquiries. According to the Department of Justice, these inquiries have found that the conventional justice system has not adequately met the needs of Aboriginal peoples. The inquiries have recommended that Aboriginal communities have the opportunity to assume greater responsibility for a number of justice programs and processes.

4.24 **Women offenders in federal institutions.** Addressing the problems of women who are serving federal sentences has become a priority. Women represent about four percent of the total population of federal offenders and their numbers are growing. In March 2001, Correctional Service Canada reported a total of 866 women offenders in prison and under supervision in the community. It estimated that by December 2004 the number would grow to about 1,075, about 450 of them in prison.

4.25 Two major reports have been issued on women and the criminal justice system. Correctional Service Canada told us it was aware that the Prison for Women in Kingston had long been unable to meet the unique needs of women offenders. In 1989, the Commissioner of the Department created a task force to develop a plan to address the needs of women offenders. In September 1990, *Creating Choices: The Report of the Task Force on Federally*

Sentenced Women emphasized the unique needs of women offenders and stressed that fundamental changes were needed to assist women offenders in rebuilding their lives. In 1990, the federal government accepted the report's recommendations. In 1994 it issued a strategy for developing programs in the new regional facilities. It appointed a Deputy Commissioner for Women, and between 1995 and 1997 it opened new regional facilities for women offenders.

4.26 In April 1996, Madam Justice Louise Arbour issued the report, *Commission of Inquiry Into Certain Events at the Prison for Women in Kingston*. The inquiry investigated and reported on the incidents that occurred in the Prison for Women, beginning on 22 April 1994. The inquiry was initiated after a male Institutional Emergency Response Team participated in the strip search of women offenders. The Arbour report contained 14 primary recommendations on women's corrections, covering staffing by gender, use of force, Aboriginal women, segregation, accountability, and grievances. Correctional Service Canada accepted most of the report's recommendations, which included the establishment of the Deputy Commissioner for Women and female emergency response teams.

4.27 Total spending on women offenders has risen. Correctional Service Canada reports that the cost of maintaining a woman offender rose from about $109,900 in 1997–98 to about $115,000 in 1999–2000; at $316, the daily cost of keeping a woman inmate in a penitentiary is much higher than the $185 it costs to keep a male offender. Correctional Service Canada says the difference reflects the cost of providing the same level of services to a smaller number of women inmates.

4.28 **Ailing and aging offenders in federal institutions**. Certain kinds of illness may result directly or indirectly in arrest and incarceration—for example, substance addiction, fetal alcohol syndrome, and mental illness. Not enough information exists to determine how many people have come to the attention of the criminal justice system as a direct or indirect result of these problems. Nor is it known to what extent the criminal justice system is dealing with what are primarily public health and social problems. Increasingly, federal institutions have to treat offenders who have severe health problems. These critical problems are costly.

4.29 Correctional Service Canada has made the following estimates:

- Eighteen percent of its male inmates had been hospitalized in a mental health facility at some time before their admission to federal prisons.
- Forty percent of offenders in its custody have problems of moderate or serious substance abuse.
- A potentially significant number of offenders suffer from fetal alcohol syndrome.
- In federal institutions about 217 offenders have HIV/AIDS, a rate at least 10 times higher than in the general Canadian population.
- About 24 percent of inmates and 14 percent of staff tested positive for tuberculosis.
- Nineteen percent of inmates are known to be infected with hepatitis C.

4.30 The proportion of offenders in Correctional Service Canada facilities who are over 50 years old is growing rapidly; from 1993 to 1996, the number of inmates older than 50 and serving sentences of three years or longer grew by about 10 percent. Of those offenders, about 24 percent had been convicted of homicide and about 38 percent of a sexual offence. In May 1996, there were 1,379 offenders between 50 and 90. Correctional Service Canada indicates that older offenders have a high incidence of multiple and chronic health conditions such as heart disease, diabetes, and cancer. It says that geriatric inmates cost up to three times more than others to maintain.

Maintaining fairness

4.31 **Legal aid.** According to the Department of Justice, legal aid programs were established to ensure equitable access to justice for economically disadvantaged individuals, particularly where there is a risk of imprisonment for an offence under the *Criminal Code*. Provinces and territories are responsible for establishing the programs; the federal government shares their funding. The organizational structure for legal aid and the eligibility requirements vary from province to province.

4.32 Legal aid plans are funded from three main sources: federal, provincial, and territorial government contributions; contributions and cost recoveries from clients; and contributions from the legal profession. In 1990–91, about $206 million was spent on legal aid in criminal matters, peaking in 1994–95 at $275 million. In 1998–99 the expenditures fell to $218 million. In 2001, the Department of Justice informed the government in connection with the current criminal law situation that there were 40 percent fewer applications for assistance approved in 1997–98 than in 1994–95.

4.33 The Department of Justice has conducted several assessments of the legal aid program. In 1998 it was concerned that large numbers of applicants for legal aid had been rejected in some jurisdictions; in addition, it was possible that some who were eligible had not applied. In February 2001, the Department of Justice told the government the following:

- Standards for essential legal services vary across the country.
- Inadequate funding of legal aid can amplify the difficulties of those already disadvantaged.
- There is no systematic gathering of data on how well the needs of Aboriginal peoples, women, and children are being met.

4.34 Further, a July 2001 Department of Justice evaluation of the program made the following conclusions:

- There is a clear and accepted rationale for legal aid programs.
- The Department has not developed clear policies and a coherent set of objectives for the program.
- Staff turnovers have limited the Department's capacity to work effectively with provincial and territorial partners.
- There is currently no empirical basis for assessing the adequacy of the Department's financial contribution to the costs of criminal and young offender legal aid. Data on the performance of the national system of criminal and young offender legal aid are currently not available except in the most rudimentary sense.

- Efforts to integrate legal aid issues into the broader policy development work of the Department have been sporadic at best.
- Provincial and territorial partners do not believe legal aid is adequately accessible to those who need the service. Recent cutbacks in service levels in many jurisdictions mean that only persons facing the most serious charges and whose financial circumstances are the most dire are likely to receive legal aid.

4.35 **Plea bargaining**. That plea bargaining occurs is widely acknowledged. The Federal Prosecution Service Desk Book of the Department of Justice indicates that several things can be negotiated: charges, procedure, sentences, and the facts of an offence for the purposes of a guilty plea. The book also contains guidelines on plea bargaining that are binding on federal prosecutors.

4.36 Plea bargaining can have several consequences:

- It can allow prosecutors and the courts to handle more cases with the same or fewer staff, reserving court time for more serious cases.
- It can give the prosecution and defense counsel significant control over the trial process and the outcome.
- It can save the victim from having to testify.
- A less serious charge can go on the offender's record, an important consideration should charges be laid for other incidents in the future.
- It can reduce the number of inmates in jail and thus the costs of building prisons and incarcerating offenders.

4.37 The practice of plea bargaining has been criticized. It has the potential to undermine the integrity of the criminal justice system, in part because disclosure of the basis for agreements and accountability for the decisions have been inadequate. There are no reliable data on how often plea bargaining occurs and with what outcomes.

4.38 **Wrongful convictions**. Several highly publicized cases of wrongful conviction in Canada have strained the credibility of the system and perceptions among the public that it is fair. These cases have resulted in the payment of compensation by governments. Three of the cases also led to commissions of inquiry. The inquiries consistently revealed major systemic problems, including questionable conduct by prosecutors and defence counsel, failure to disclose information, and flawed investigation by law enforcement agencies. The inquiries recommended considering an independent review body to investigate claims of wrongful conviction.

4.39 Wrongful convictions are initially addressed and remedied through the courts. Once an individual has exhausted judicial avenues, he or she can apply to the Minister of Justice for further review. Each year, the Minister receives about 50 to 70 requests for a review. Until 1994, the Department of Justice reviewed the requests on an ad hoc basis. In 1995 a more formal review group was established. At January 2002, the Minister had reviewed 53 cases and in 41 of them declined remedial action; another 117 applications were at different stages of the process. Usually about a third of applications are screened out as not eligible for the Minister's review.

4.40 The current review process has been criticized; some believe that the Minister of Justice, who is also the Attorney General of Canada, is in a conflict of interest when reviewing cases of wrongful conviction. Also criticized are the extensive delays, the lack of clear criteria for decisions, and the secrecy of the review process.

4.41 **Victims**. In 1983, a federal–provincial task force conducted the first study of justice for the victims of crime. It concluded that often the victim is "twice victimized: once by the offence and once more by the process." A report in October 1998 by the Standing Committee on Justice and Human Rights, *Victims' Rights—A Voice, Not a Veto*, called for a co-ordinated strategy at all levels of government to address the needs of victims. In its May 2000 report concerning the *Corrections and Conditional Release Act*, the Committee reiterated its 1998 recommendations for addressing victims' needs.

Crime as a business

4.42 The criminal justice system is designed to deal largely with individual offenders—to bring them to justice, provide fair trials and sentences, and try to rehabilitate them and reintegrate them into society. "Crime as a business" refers to enterprises organized for the sole purpose of profiting from crime.

4.43 Examples of organized crime include telemarketing fraud, counterfeiting, electronic fraud, the illegal drug trade, money laundering, and people smuggling, as well as environmental crimes such as illegal trafficking in endangered species and hazardous wastes. These activities may involve serious violent crimes.

4.44 Getting caught by police and serving a long sentence may be accepted as a risk of doing business. Individuals convicted of organized crime activities may not fit prevailing assumptions about rehabilitation and reintegration.

4.45 Organized crime benefits from the same factors that foster the legal economic activities of national and multinational corporations, for example,

- the growth of relatively unrestricted cross-border movement of goods, services, capital, information, and people; and
- the borderless world of high-speed communication technology.

These factors also foster the organization of crime groups internationally, which raises investigative costs.

4.46 **Impact**. A 1998 study by Solicitor General Canada estimated the impacts of organized crime in Canada as the following:

- The value of the Canadian illicit drug market is between $7 billion and $10 billion each year. The RCMP's Estimates to Parliament for 2000–01 indicated that the annual street value of illicit drugs could be as high as $18 billion.
- Economic crime, such as securities fraud and telemarketing scams, costs Canadians at least $5 billion a year.
- Between $5 billion and $17 billion is laundered in Canada each year.
- Up to 16,000 people may be smuggled into Canada every year.

- The production and sale of counterfeit products such as clothing, software, and pharmaceuticals could cost Canadians over $1 billion each year.
- Illegal smuggling of tobacco, alcohol, and jewellery could result in the loss of up to $1.5 billion in government tax revenues.

4.47 The study noted that organized crime undermines legitimate businesses by creating a competing economy that launders money and reduces the tax revenues collected. It also may directly affect consumers—for example, organized theft of vehicles increases the cost of automobile insurance. In correctional facilities, criminal gangs may threaten staff and inmates.

4.48 Estimates of the extent and impact of organized crime are based on limited and questionable information, often reiterated from report to report. Systematic, quantitative information is hard to obtain. Police agencies are concerned that releasing information could compromise their investigations. Criminal organizations operate in secrecy and obscurity; obtaining information on their activities is time-consuming, expensive, and dangerous.

4.49 Preliminary data indicate that there are 64 large-scale organized crime groups in Canada. Most have national and international links that are used to exchange goods, services, expertise, skills, personnel, and facilities. Most use legitimate businesses to launder money. About half are involved in the corruption of politics, the media, public administration, judicial authorities, or the economy.

4.50 Investigations into organized crime are frequently on an international in scale. While economic activities increasingly eclipse national borders, policing is confined to national jurisdictions and often to jurisdictions within national borders, such as provinces and states. Criminals can easily engage in activities that cross borders, while police must seek co-operation to work across borders. Dealing with organized crime requires close international partnerships and exchange of information and intelligence. However, evidence gathered in foreign jurisdictions and convictions in foreign courts cannot always be used in Canadian courts, and extradition may be hampered by different national policies on sentencing, particularly on capital punishment.

4.51 It is increasingly difficult and costly to investigate and prosecute organized crime. Large-scale criminal groups are more diverse; to infiltrate them, police now need a lot more knowledge of different cultures and languages. Smaller-scale groups are based on family or long-term relationships and cannot be infiltrated. Organized crime groups insulate themselves and use the newest technology, such as encryption, to conceal their activities. Investigations and trials are lengthy.

Ensuring lawful access

4.52 Dealing effectively with crime, including terrorism, may require police and other agencies to intercept communications and to search and seize data. To do this, agencies need a legislative and judicial framework to provide for "lawful access." Lawful access is an essential tool in the prevention, investigation, and prosecution of serious offences and the investigation of security threats to Canada. Agencies are empowered to conduct lawful access activities only within legislated limits and with judicial approval. The lawful interception of communications and the search and seizure of data enable them to detect and investigate criminal activities, particularly those involving illegal drugs, money laundering, smuggling, child pornography, and terrorism.

4.53 To maintain the ability to lawfully intercept and seize information, the government directed in March 1999 that a strategic framework for lawful access be established to do the following:

- develop technological solutions to maintain lawful access;
- reinforce co-operation between government and industry to develop solutions; and
- conduct a comprehensive review of legislation and technological options to support lawful access.

In May 2000, the Treasury Board allocated $180 million for these purposes between 2000–01 and 2004–05.

4.54 Keeping a strategy and capability up-to-date is difficult. The deregulation of the telecommunications industries, the proliferation of service providers, and advancing technologies are limiting the capability of law enforcement and national security agencies to collect information. Their information and intelligence-gathering activities cannot adequately keep pace with these changes or counter the exploitation of new technologies by criminals and terrorists.

4.55 Communication networks are globally interconnected, presenting complex technical and legal challenges for lawful access. Satellite technology allows for mobile communication world-wide. A telecommunication switch can be located in one country but handle the routing activity for several countries. This creates jurisdictional problems and a need for international co-operation. The move to high-speed, high-bandwidth digital communications means that agencies have to contend with higher volumes of communication and more complex signals. The challenges are heightened by affordable, easy-to-use, and hard-to-break encryption and will increase further when voice and data communications no longer use traditional switching equipment.

4.56 According to government agencies these new technologies are being used to shield criminal activity and terrorism. Criminals and terrorists are using cutting-edge technologies, such as those developed to maximize the speed and security of internet communications. As a result, the capability of law enforcement and national security agencies to gain lawful access is being rendered increasingly ineffective. There is further concern that the agencies' capabilities may not be able to match the state-of-the-art equipment and software used by criminals and terrorists. The agencies conclude that maintaining a capability in the face of such technologies will remain a challenge into the foreseeable future.

Reshaping the criminal justice system

4.57 Governments are reshaping the criminal justice system to respond to the many challenges. They are changing their present programs for youth, Aboriginal peoples, and women. They are funding crime prevention and community safety programs, restorative justice initiatives, diversion programs, and victims' programs. They are developing new kinds of courts. Private security is becoming a major business. There is not enough information to determine how these many changes interrelate and how they affect the system as a whole.

Programs aimed at significant groups

4.58 **Youth justice renewal.** Approaches to youth justice are revised continually in response to real and perceived shortcomings. In May 1998 the Minister of Justice released *A Strategy for the Renewal of Youth Justice*, intended to yield the following benefits:

- over time, fewer young people committing crimes;
- more use of non-judicial measures and fewer youths processed through the formal justice system;
- more use of community-based sentences and fewer youths in custody; and
- measures to target the most violent young offenders.

4.59 To establish the legal basis for key elements of the strategy, the government tabled the *Youth Criminal Justice Act*. The legislation focusses on rehabilitation and emphasizes the use of alternative measures outside the court process. At this writing, the federal government has agreed to delay proclamation of the legislation until April 2003.

4.60 The governments of Ontario and Quebec opposed the legislation; other provinces and territories supported its general direction.

4.61 The federal government spends significant amounts on youth justice. In early 1999, spending of about $486 million over six years was recommended. The Treasury Board approved spending of $76.3 million between 1999 and 2005 to help provinces and Aboriginal communities implement the new legislation.

4.62 Federal–provincial cost-sharing agreements on youth justice include other funding, about $144 million in 1998–99, for example. With the May 1998 announcement of the Youth Justice Renewal Initiative, the government increased funding to about $161 million for 1999–2000 and about $178.8 million for 2000–01. Currently, the federal government has arrangements with all of the provinces and territories except Quebec and Ontario.

4.63 While the proponents of the legislation believe that it will lead to major improvements, others have raised the following concerns:

- The new legislation represents a political response to public perceptions that are based on isolated incidents, and more to problems arising from inadequate resourcing of programs than to problems of policy.
- Better understanding and constructive involvement by citizens are needed more than new legislation.

- Historically, youth justice has set the pace for the progressive development of the criminal justice system as a whole, whereas the new approach seems to be adopting the more punitive policies and practices of the adult system.

4.64 **Approaches to justice for Aboriginal peoples.** As youth justice is changing, other changes are slowly increasing Aboriginal peoples' responsibility for delivering Aboriginal justice.

4.65 The federal government has a number of Aboriginal justice initiatives, including the following:

- Legislation has authorized Correctional Service Canada to enter agreements with Aboriginal communities to provide correctional services, and to transfer offenders to the care and custody of an Aboriginal community with their consent and the community's.
- Aboriginal spirituality and Elders have been given official recognition.
- An Aboriginal Justice Initiative was allocated $22.4 million from 1991 to 1996.
- An Aboriginal Justice Strategy spent about $29 million from 1996–97 to 2000–01 and was allocated about $6.4 million in 2001–02.
- The RCMP holds community justice forums.
- An Aboriginal Community Corrections Initiative was allocated about $2 million from 1996–97 to 2000–01.
- The First Nations Policing Program spent about $285 million between 1992–93 and 2000–01.
- The Native Courtworkers Program, a federal–provincial–territorial cost shared initiative, has spent a total of about $250 million since 1973–74, including a federal contribution of about $82 million.
- The National Parole Board uses Native Elders at Board hearings to help ensure that Aboriginal cultures are respected.

4.66 Together, the goals of these programs include empowering Aboriginal communities to take more responsibility for administering justice; reducing crime and incarceration; and developing community-based restorative justice programs and capacities for post-sentencing supervision.

4.67 The government also has several broader initiatives that will ultimately establish the overall framework for the governance of justice for Aboriginal peoples. The 1995 federal government approach to inherent rights and the negotiation of self-government covers the administration and enforcement of Aboriginal laws, including the establishment of Aboriginal courts or tribunals, the establishment of offences normally created by local and regional governments, and policing.

4.68 In response to the Royal Commission on Aboriginal Peoples, in 1998 the government published *Gathering Strength: Canada's Aboriginal Action Plan*. The plan indicated that the government would continue to discuss Aboriginal justice issues. This included, for example, developing Aboriginal capacity to manage community-based justice, developing alternatives to the formal justice system, providing effective police services that are accountable to the community, and carrying out crime prevention programs.

4.69 The government has also established the position of federal interlocutor, with authority to negotiate with Métis south of the 60th parallel and with non-status Indians.

4.70 **Women as victims.** Justice programs for women are also changing in significant ways. In 1991 the government created the Canadian Panel on Violence Against Women. The Panel recommended a policy of "zero tolera[illegible] for violence against women.

4.71 The *Criminal Code* has been amended to protect women more effectively. For example:

- Provisions added in 1993 address criminal harassment and stalking.
- A 1995 amendment precludes the use of extreme intoxication as a defense in crimes of violence.
- A 1996 amendment restricts access to medical, counselling, therapeutic, and other personal records of complainants in sexual offence prosecutions.

4.72 The government has also spent significant amounts of money on various initiatives to counter the abuse of women, children, and the elderly—about $176 million from 1988 to 1996.

Changes in federal corrections

4.73 Changes in federal corrections to address the needs of women have been discussed previously. To deal with drug abuse, Correctional Service Canada has focussed on reducing the supply of drugs and alcohol in institutions and reducing the demand through program and health interventions. It reinstituted random urinalysis at all institutions in November 1992, and in 1994 it adopted a formal drug strategy. The strategy focusses on deterrence, treatment, and safe reintegration into the community. In addition to urinalysis, Correctional Service Canada uses ion scan technology, drug detection dogs and intelligence gathering.

4.74 A 1995 survey of inmates, however, indicated that about 68 percent believed either that the testing had had no effect or that drug use had increased. About 28 percent thought that inmates had simply switched to less detectable drugs such as heroin and cocaine, which clear the body in 48 to 72 hours; softer drugs take up to 21 days to clear the body of a chronic user.

4.75 Correctional Service Canada believes that random urinalysis has proved effective at reducing drug use among inmates of federal penitentiaries. It says that five years ago, 37 percent of inmates were testing positive; the current rate is about 12 percent. Correctional Service Canada has started to implement its National Methadone Maintenance Treatment Program, which could cost between $7,000 and $12,000 a year for each offender treated.

4.76 **Other illness.** Correctional Service Canada has introduced several measures to combat the spread of infectious diseases in federal penitentiaries, including the following:

- condoms, lubricants, and bleach kits for cleaning needles are made available to all inmates in federal institutions; and

- all federal inmates are offered voluntary testing for HIV on admission and throughout their sentence.

There is no needle exchange program for inmates.

4.77 Correctional Service Canada operates four regional psychiatric centres to address mental health issues. It expects to develop plans in fiscal year 2001–02 for dealing with the health problems of its older offenders.

Efforts to maintain fairness

4.78 **New courts.** New courts are being established for mentally ill offenders and users of illicit drugs. There are also new courts that address the needs of Aboriginal peoples. In May 1998, a mental health court was established in Toronto to hear in a single courtroom all cases where accused are mentally disturbed. In January 1999 a new drug treatment court opened, with federal funding of about $1.6 million over four years. A similar court was established in Vancouver in December 2001. In October 2001, the Gladue (Aboriginal Persons) Court was established in Toronto; similar courts have been established in Saskatchewan and Alberta.

4.79 **Legal aid.** The federal government allocated $82 million for criminal legal aid in each of 2001–02 and 2002–03. In February 2001, it authorized another $20 million for each of those years to fund its share of existing federal–provincial agreements on criminal legal aid; however, the extent of the need is not known.

4.80 In April 2001, the Department of Justice initiated a two-year, $8 million project. The funds will be used to conduct national research on unmet needs and related issues, develop pilot projects to review service delivery, and conduct a policy review of federal objectives. They will also be used for federal, provincial, and territorial negotiations on research, policy, and funding issues.

4.81 **Wrongful convictions.** In 1998, the Department of Justice released a consultation paper to seek advice on enhancing the government's ability to deal with miscarriages of justice. In March 2001, the Department reintroduced legislation intended to improve the review of convictions. The proposed legislation, before the Senate at this writing, would do the following:

- state the conditions under which a conviction is eligible for review;
- identify the criteria for granting a remedy;
- set out the review process in regulations;
- give the Minister of Justice powers to review summary convictions;
- give the Minister powers to compel witnesses to provide information and produce documents; and
- require the Minister to report annually to Parliament on the review of convictions.

4.82 The legislation stops short of establishing a body similar to the United Kingdom's Criminal Cases Review Commission. The Commission's purpose is to review cases where a miscarriage of justice is suspected and to refer to a court of appeal any convictions where there is a real possibility that the original conviction, verdict, finding, or sentence would not be upheld.

4.83 In the United States, major projects in public interest law have obtained retrials for certain offenders. In Canada there is a small, similar effort.

Changing the boundaries of the system

4.84 The government is undertaking new initiatives such as community safety and crime prevention programs, restorative justice, and diversion programs. Solicitor General Canada told us that the point of these programs is to keep offenders out of the criminal justice system where appropriate, reduce caseloads and numbers of incarcerated offenders, and ultimately reduce the crime rate. The Department of Justice told us that these are long-term approaches to deep-rooted causes of crime.

4.85 **Community safety and crime prevention.** The government began fairly recently to fund crime prevention programs because of concerns about the effectiveness of the criminal justice system. In 1993, the House of Commons Standing Committee on Justice and the Solicitor General issued *Crime Prevention in Canada: Towards a National Strategy*. The Committee concluded that the traditional "police, courts and corrections" approach to crime is not effective at reducing future risks and promoting community safety, for the following reasons:

- It fails to cope with the amount of crime. An unknown number of crimes go undetected and many known crimes go unreported.
- It fails to identify many criminal offenders and bring them to justice.
- It fails to rehabilitate most offenders. Even if correctional programs were to rehabilitate all offenders sentenced to prison, the impact on crime would be only marginal because the prison population does not include all offenders.
- It fails to address the underlying factors associated with crime.

4.86 The report concluded that a "collective response to crime must shift to crime prevention efforts that reduce opportunities for crime and focus increasingly on at-risk young people and on the underlying social and economic factors associated with crime and criminality."

4.87 The government has allocated about $384 million for the 10-year period ending with 2004–05 to carry out its National Strategy on Community Safety and Crime Prevention. About 70 percent of that amount is for grants and contributions to the Safer Communities Initiative, which includes the Business Action Program on Crime Prevention, the Crime Prevention Investment Fund, the Crime Prevention Partnership Program, and the Community Mobilization Program. At the same time, other federal criminal justice agencies have incorporated crime prevention into their activities.

4.88 **Restorative justice.** Like crime prevention activities, restorative justice initiatives have increased in response to dissatisfaction with traditional approaches to criminal justice. The move to restorative justice has been embedded in legislation and endorsed by the courts, the highest levels of government, and international organizations such as the United Nations.

4.89 Restorative justice focusses on repairing the harm that offenders have done to their victims and the community. Victims and other members of the community are included in the justice process as active participants. Advocates of this approach believe that it helps to make the justice system more humane, reinforce accountability of offenders, and rebuild communities that may have been weakened by crime and other social ills.

4.90 Restorative justice approaches are being used at various points in the criminal justice process. Federal criminal justice agencies have established restorative justice programs:

- The RCMP uses community justice forums, usually as an alternative to charging an offender.
- The Federal Prosecution Service has played a key role in introducing restorative justice concepts in the North, such as sentencing circles.
- Correctional Service Canada has a number of restorative justice programs including victim–offender mediation in serious crimes, prison-based restorative justice, and circles of support and accountability.
- The Aboriginal Justice Strategy encourages community-based programs to use restorative justice concepts, such as sentencing circles.

4.91 While many believe that restorative justice can yield significant benefits, reservations expressed by others include the following:

- The adoption of restorative justice approaches is creating a parallel, community-based stream of justice in Canada.
- There is a risk that restorative justice measures funded or overseen by criminal justice agencies could actually draw more offenders into the criminal justice system, because they deal with relatively minor incidents that used to be handled outside the system.
- Offenders and victims may feel pressured to participate in a program.
- There are few standards and benchmarks for restorative justice programs.
- The effectiveness of restorative justice approaches is uncertain because offenders and victims choose to become involved in the process.

4.92 The Department of Justice told us that when it has provided funding to a restorative justice program, it has always ensured that the conditions attached to participation remove any pressure on victims that would tend to victimize them again. However, the Department noted that it is not a participant in the program and has no way of knowing exactly what transpires during discussions between program officials and victims.

4.93 There is not enough information available on the extent and effectiveness of restorative justice measures. For example, there is a need for research to determine whether restorative justice approaches reduce recidivism more effectively than traditional approaches.

4.94 **Victims.** Governments continue to take measures to address victims' concerns. The *Criminal Code* has been amended, for example, to do the following:

- ensure that victims are informed about opportunities to prepare victim impact statements and to read them aloud in court if they choose;
- require police and judges to consider the safety of victims in all bail decisions; and
- make it easier for victims and witnesses to participate in trials by protecting young victims and witnesses from cross-examination by defendants who represent themselves in court.

4.95 In May 2000, the Subcommittee of the Standing Committee on Justice and Human Rights recommended that a victim receive more information on the offender's conduct and movement within the system and be allowed to participate in decision-making. The government agreed to act on the recommendations if consultations with crime victims and providers of victim services indicated that the proposed changes would help.

4.96 In response to the Committee's 1998 report, *Victims' Rights—A Voice, Not a Veto*, the Treasury Board in June 2000 approved $25 million over five years for the Department of Justice to develop a crime victims initiative and establish a policy centre for victims. In April 2001, Correctional Service Canada established a Victims Unit to provide organizational leadership. As of July 2001, victims of crime have an opportunity to present a prepared statement at National Parole Board hearings. The RCMP has established a Crime Prevention and Victims Services Branch.

4.97 The expansion of the victim's role is intended to balance the rights of victims and offenders. It has also raised the concern that the principles that guide sentencing, conditional release, and parole decisions could be compromised.

4.98 In July 2001, Solicitor General Canada reported the results of consultations with crime victims and providers of services to victims. The consultations indicated that victims' perceptions have not changed much since 1983. Victims still feel that offenders have more rights than victims; they want a larger voice in the justice process; they want respect; and they continue to live in fear.

Private security measures

4.99 While the government is reshaping the criminal justice system and changing its boundaries, private sector security firms increasingly assume police functions.

4.100 Statistics Canada indicates that in 1996 there were about 59,000 police officers in Canada and about 82,000 private security personnel (about 12,200 private investigators and 69,800 guards). Between 1991 and 1996, the number of private investigators increased from about 8,200 to 12,200, or 49 percent, some of them probably part-time employees.

4.101 Spending on private security is nearing the amount spent on police. Based on 1995 average annual incomes, salaries of police officers totalled about $3.2 billion and those of private security personnel around $2.2 billion. Taxpayers bear the cost of police services. Businesses pay for private security but pass the cost on to consumers.

4.102 Police and private security perform similar but not interchangeable functions. Police are responsible for enforcing the *Criminal Code* and other statutes. Private security includes private investigators and security guards who protect property and people, conduct investigations to locate missing persons, obtain information for civil and criminal litigation, and investigate unlawful acts by employees and patrons of businesses. Private security guards control access to buildings, patrol assigned areas, and enforce business security policies. In many cases they have taken over one of the most important and highly visible activities of the police, the local foot patrol.

4.103 The mandates of police and private security are very different. Police are part of government and are responsible to it. They are expected to act in the public interest and are given special powers. Private security personnel are hired by companies or individuals to act on their behalf and in their private interests. The growing use of private security may reflect a perceived or actual lack of police capacity to deal with crime in the workplace and with street-level property crime.

4.104 There are concerns that the large increase in private security could lead to the following:

- less accountability to the public and fewer requirements to respect civil rights;
- better protection for those who can afford it;
- an increase in private discretionary justice that is unscrutinized by the courts or other public organizations; and
- accountability to employers whose focus is the return on their investment.

4.105 There has been no comprehensive government examination of that relationship or of how the efforts of both could be defined for better protection of the public interest.

Response to crime as a business

4.106 To deal with organized crime, in May 2001 the government authorized spending of about $515.5 million from 2001–02 to 2005–06, about $317 million of it for the RCMP. Legislation passed since 1996 has, for example, authorized a witness protection program, made participation in criminal organizations an indictable offence, established methods to detect money laundering, allowed police to conduct covert operations against money laundering, and made extradition easier. The legislation has also targeted individuals involved in criminal organizations, improved protection for criminal justice officials and their families, and provided police officers with protection from criminal liability for certain illegal acts committed in the line of duty.

4.107 The government is in the early stages of implementing its strategy against organized crime. Its success will be difficult to gauge without reliable information. To allow the government to have a better understanding of the scope of organized crime and its impact, work is under way to examine the issue of data collection, the impact of organized crime, and the effectiveness of anti-organized crime measures.

Effects of Supreme Court decisions

4.108 Decisions by the Supreme Court of Canada are intended to protect the rights of Canadians as established in the Canadian Constitution, particularly in the *Canadian Charter of Rights and Freedoms*. However, the Court's decisions may also affect the criminal justice system and the efforts against organized crime. The proper authority to act may have to be legislated. For example:

- In November 1991, the Court substantially increased the scope of the evidence that the prosecution is required to disclose.
- In May 1997, the Court ruled that police officers required a warrant to enter a private dwelling for an arrest. The government amended the *Criminal Code* to include this requirement unless "exigent circumstances" make a warrant impracticable.
- In April 1999, the Court ruled that police have no special immunity from prosecution if they engage in illegal activity, such as "reverse sting" operations that involve drug trafficking. In early 2002, legislation came into force to provide for immunity under certain conditions.

4.109 Reports prepared by the Department of Justice, Solicitor General Canada, and the RCMP state that the Supreme Court decisions have had a major impact on criminal justice agencies. Their assessments are based for the most part on operational experience with certain cases. The agencies have not comprehensively assessed the impact of the Court's decisions on their operations. However, as part of a policy response the Department of Justice did review the broader impacts of two of these decisions, through consultations with affected parties.

Providing effective information

Sharing of information by criminal justice agencies

4.110 Federal government assessments indicate a fragmentation of criminal justice information due to differences in jurisdictional mandates, funding levels, and security concerns as well as a history of agency independence.

4.111 The information systems of each criminal justice agency focus on tracking events that relate to its own activities. However, the overall effectiveness of the criminal justice system and the results it generates depend heavily on the exchange of appropriate information among the agencies at each stage in the system. Recent reviews have underlined a lack of the capacity and perhaps the understanding needed to share and use information effectively and at the right time.

4.112 Criminal justice agencies use computer-based information systems. Fiscal restraint, especially in recent years, has often meant that upgrades to older federal government information systems were deferred. These deferrals occurred at a time when the criminal justice system was becoming more complex and harder to administer effectively and efficiently. Gaps in the sharing of information have led to difficulties in some highly visible and sensitive cases.

4.113 In 1997, the government announced a commitment to "integrate information systems of all partners in the criminal justice system." Solicitor General Canada is the lead department in this integration of justice information. Departmental reports to Parliament by some federal criminal justice agencies call the Integrated Justice Information (IJI) initiative a priority. Initially, the plan covered the five-year period from 1999 to 2004, but delay in funding extended the period to 2005.

4.114 The IJI initiative is addressing difficult and complex problems of this kind. Initial government assessments highlighted the situation across agencies and jurisdictions:

- There is no comprehensive, centralized index of crimes and offenders to identify all the information that needs to be connected and exchanged among various agencies.
- There is no common set of data standards to help correlate and compile criminal histories.
- The inability to file documents electronically within and among justice agencies means that the same data must be entered several times in multiple, incompatible systems across jurisdictions, causing delays and increasing the risk of errors with potentially tragic results.

4.115 In early 1999, government approved the creation of a Canada Public Safety Information Network (CPSIN) as a basis for a modern Canada-wide network of information, linking criminal justice agencies for public safety. This is an important element of the IJI initiative. The government recommended spending of about $240 million over four to five years, starting in 1999.

Progress of the Integrated Justice Information initiative

4.116 Agencies are trying to overcome systemic, cultural, and technological barriers to sharing information. An array of legislation, regulations, policies and practices govern the exchange of information and particularly the privacy and security of information. For example, there are 6 federal statutes that deal with information management, 11 police acts, and 10 provincial acts on freedom of information and protection of privacy.

4.117 A September 2000 report by Solicitor General Canada indicated that confusion exists within and among agencies about what information they need to share and why. The report indicated that the agencies have different mandates and information needs, and fiscal constraints have forced each to focus on what clearly belongs within its own mandate.

4.118 Solicitor General Canada's March 2001 risk review of the IJI initiative and the Integrated Justice Information Secretariat found the following:

- complexity of co-ordination;
- lack of operational decision-making authority by the Secretariat over component projects and limited leverage to ensure that they support the IJI initiative;
- slow progress in developing a detailed justice policy framework for such issues as information sharing, privacy, and security; and

- lack of the detailed understanding and quantification of benefits to the community as a whole and to each stakeholder organization that are needed to engage commitment, secure resources, and influence priorities.

4.119 An October 2001 assessment of the status of the CPSIN's 21 elements found that nine elements were completed or on track, six needed monitoring, and five were at risk; one project for fingerprinting had not yet been resourced. Among elements at risk were the governance framework, the offender tracking identifier, and the integrated police information reporting system.

4.120 The IJI initiative is about halfway through its five-year term. Recently, nine federal agencies formally agreed to a charter confirming their commitment to the CPSIN and to sharing information. In the view of the IJI Secretariat, the charter "articulates an unprecedented agreement of nine diverse and independent partners on a very complex and intricate initiative."

4.121 Other jurisdictions have not yet been asked to sign the charter. The IJI Secretariat told us that while provinces and territories have been involved in discussions from the onset of the initiative, the first phase of development was focussed deliberately on federal capabilities. The involvement of the provinces and others is still in the preliminary stages. Two provinces are developing their own systems. The IJI Secretariat told us that this was a positive development, and it intends "to leverage the efforts of all governments by providing leadership and required national components to meet the common information-sharing needs."

4.122 The charter signed by federal agencies identified issues and risks that they agreed to manage:

- There is an absence of formal, interdepartmental management structures for such a complex initiative; agencies agreed that new ways of doing business need to be supported if the initiative is to be implemented.
- Commitment to the initiative may not be reflected throughout the agencies; each agency agreed to ensure that the initiative is a priority.
- Departments and agencies may ignore national criminal justice information policies, standards, and guidelines; agencies agreed to promote voluntary adherence.
- Multiple new partners may generate conflicting or excessive new requirements; agencies agreed that the growth of the initiative will need to be planned to maximize benefits.

4.123 The March 2001 risk assessment noted that the IJI Secretariat should develop a comprehensive understanding of both the cost to implement the vision and the desired benefits. However, the June 2001 progress report does not include any cost information; the IJI Secretariat does not track all federal costs. The Secretariat has indicated that because its partners in other jurisdictions are independent and have their own budgets, it has no information on the costs they may incur.

4.124 While the IJI Secretariat is monitoring the progress of specific tasks, it has not yet assessed whether information sharing and protection of public safety have improved. It told us an assessment would be premature because "the technology and framework must be implemented before electronic information sharing can actually occur and expected results and benefits become evident."

4.125 The IJI Secretariat told us, "Overall, the initiative, while complex, is not at substantial risk." It points, for example, to the progress being made on the National Index of Criminal Justice Information, the data standards, and various pilot projects at different locations.

Inconsistent information on the reliability of the Canadian Police Information Centre

4.126 The RCMP's Canadian Police Information Centre (CPIC) is the national system for a wide array of information that police and other law enforcement officials depend on to do their work. The information includes criminal histories; fingerprint data; and records of missing persons, stolen vehicles, and offenders on conditional release. A core objective of the CPSIN project is to replace the CPIC system with a national index of criminal justice information. The index would provide national access to essential information on crimes and offenders. In March 1999, the government approved funding of $114.7 million for this index over four years, starting in 1999–2000.

4.127 Approval for the funding was based on representations in early 1999 that the difficulties plaguing the CPIC had especially serious implications for public safety. According to those representations, the system was frail, overburdened, and in urgent need of renewal: in less than a year, breakdowns totalling hundreds of hours had affected various regions. The longest outage was 18 hours, affecting two provinces. The RCMP has estimated that during each eight-hour breakdown, over 100,000 police checks could not be made. The representations emphasized that because of these system failures, police did not have access to critical information about individuals or information on outstanding warrants, conditions of release, and restrictions such as firearms prohibitions and restraining orders. As a result, they were unable to identify crime suspects, assist voluntary agencies in screening out pedophiles from jobs involving contact with children, and perform other essential functions to protect the public. The representations concluded that the cost of failing to address the problems—inadequate information sharing, old technology, and fragmentation of systems—would be high; inaction would risk both community safety and the effective administration of justice.

4.128 This information was based in part on a 1999 RCMP study of the CPIC's availability to users. The study found that the CPIC was unavailable to users more than 10 percent of the time, or 880 hours each year, regionally or nationally. Depending on how long the system was down, up to 20,000 law enforcement officers could not access the network in the performance of their duties and the outages prevented three million queries across Canada, putting officers and the public at risk. The study also reported that the outages cost an estimated $13 million in lost time. In addition, the central computer mainframe was down for a total of about 75 hours, affecting around 20,000 officers and almost one million queries and costing an estimated $5 million in lost time.

4.129 In February 2002, the RCMP informed us that its information was incorrect. Officials told us that the CPIC actually was unavailable only three percent of the time on a national basis and, on a regional basis, only two percent of the time. According to the RCMP, its study had erroneously assumed that outages at specific locations meant outages across the system, for all users, when in fact the majority of these incidents did not have a system-wide impact. The RCMP concluded that its 1999 analysis therefore "provides a total misrepresentation of system availability statistics as the majority of these outages had a local and not a system-wide impact."

4.130 This new information was provided to us too late to examine. However, the RCMP advised us that we had rightly pointed out the inconsistencies in its data on the CPIC's availability and that it would evaluate the implications and act accordingly to clarify the situation.

Evidence-based criminal justice

4.131 Building and maintaining an effective criminal justice system requires reliable national information on the nature of crime, on crime trends, and on what actions work. We are concerned that the existing data are not adequate to this task and can be misinterpreted if not used with caution. Moreover, we are concerned that the national capability to collect and analyze data on the criminal justice system is inadequate.

4.132 While at least $10 billion is spent each year on the criminal justice system, the government allocates only about $5 million a year to Statistics Canada's Canadian Centre for Justice Statistics (CCJS) for the collection of core national data on the system. The CCJS organizes and carries out the work of a federal–provincial–territorial partnership known as the National Justice Statistics Initiative. That initiative is led by the deputy ministers responsible for justice in Canada and the Chief Statistician of Canada. Its objectives are to provide information for decision making, improve the quality of information, and facilitate information sharing. Representatives of the partners in the initiative decide the CCJS priorities.

4.133 The CCJS produces most of its information from data provided by different administrative record systems of participating federal, provincial, territorial and municipal criminal justice agencies. It uses the data to create national information databases, where possible, on crime trends and criminal justice agency activities. In addition, Statistics Canada conducts national surveys to gather information on the fear and perceptions of crime and estimates of self-reported experiences of criminal victimization. Like Statistics Canada itself, the CCJS has no mandate to analyze policy. Most policy analyses are conducted by criminal justice agencies for their own purposes.

4.134 The criminal justice data that are available have major gaps, such as the following:

- There is not enough information on Aboriginal people in the criminal justice system.
- Not enough information is available on restorative justice programs, diversion programs, and victims' programs.
- Not enough information is available on the extent to which Canadians perceive that they have been victims of criminal behaviour.
- Information on organized crime is scarce, including data on the proportion of crime that is committed by criminal organizations.
- The RCMP provides aggregate but not detailed statistics on crime data; full and detailed coverage is expected in 2007.
- There are no data available on crimes investigated by private security personnel without the involvement of public police agencies.
- Military police and some First Nations police do not yet report crime statistics.
- New Brunswick, Manitoba, and British Columbia do not report data on adult court activities; nor do about 140 municipal courts in Quebec.

In addition, the Department of Justice told us that the absence of superior court data from most jurisdictions represents a major gap in the picture we have of how the justice system is functioning.

4.135 Data on individuals as they pass from one criminal justice agency to another are also insufficient.

Improving the national information infrastructure

4.136 The CCJS has developed a network of advisory committees, and it consults with various stakeholders to identify national information requirements. We interviewed representatives of governments, non-government organizations, and academia to ask how the CCJS could be improved.

4.137 Government representatives in the CCJS partnership told us that they find the CCJS responsive and the information it provides useful. But they added that there are many needs that are not met, mostly because of a lack of funds and partly because of gaps in the data. Those outside government told us that the CCJS is not as responsive as it could be because it is linked so closely to the priorities and interests of its government partners.

4.138 Most of the CCJS budget is already committed to existing projects and not much is left to fund new projects. The most recent planning exercise, for 2002–03, found that the CCJS budget of $5 million had only an estimated $150,000 available for additional needed projects.

4.139 This means that no funds are available to collect data that would support detailed analyses of criminal justice issues across the system and over time, for example, such issues as restorative justice and repeat offenders and issues related to such groups as young offenders and Aboriginal peoples. The CCJS estimates that it and its partners would need substantially more funding to achieve significant improvements in national criminal justice information.

Conclusion

4.140 Criminal justice agencies in Canada have a history of operating independently. This reflects the Constitution's division of responsibility between federal and provincial governments and the separate legislative mandates of each agency. Their independence makes it difficult for the agencies to develop a shared vision and objectives for the criminal justice system as a whole and a co-ordinated, effective response to system-wide challenges.

4.141 The criminal justice system is trying to respond simultaneously to diverse and significant issues affecting specific groups such as youths, women, and Aboriginal peoples. It is attempting new solutions, some of them controversial. For example, the federal government's new youth justice strategy is opposed by Quebec and Ontario. Several of the intended solutions such as crime prevention programs, diversion programs, and restorative justice initiatives are designed to reduce offenders' involvement in the formal system of criminal justice.

4.142 Private security firms play a growing role in preventing and responding to criminal activity. The relationship, however, between their activities and those of police is unclear.

4.143 The business of organized crime is lucrative and a major threat to the well-being of Canadians. Criminal justice agencies are developing a comprehensive strategy against organized crime, but they are doing it without all the necessary information on its nature and pervasiveness. Moreover, government agencies operate in an environment of continually emerging technologies and court decisions that both help and hinder their efforts and operations.

4.144 There is a clear need for criminal justice agencies to improve their sharing of information on crime, offenders, and victims. The Integrated Justice Information initiative addresses the need for information sharing on crime and offenders. It is about halfway to its scheduled completion in 2005. This is a complex and difficult initiative that requires the sustained commitment of many agencies to be successful. We believe that as soon as is practical, the government needs to conduct an assessment of whether expected improvements in information sharing are occurring.

4.145 We believe there is a need to comprehensively assess the overall impact of the many changes being made to the criminal justice system. However, we doubt that such an assessment is possible with the national data and analytical capacity currently available. As a first step, the government needs to identify, assess, and make the needed improvements in the national capacity.

Department of Justice Canada's response. The Auditor General's stated purpose for this study was to "identify key challenges facing the criminal justice system and how the system is responding to them." Conducting such a system-wide study is, without doubt, an ambitious undertaking. The study correctly points out that Canada's criminal justice system is complex and multijurisdictional, and the challenges it faces are similarly complex.

The study makes a number of valid points about some of the ongoing challenges faced by certain groups in the criminal justice system, and touches on some of the complex issues associated with the system's response to addressing those challenges. It also fairly points to some of the shortcomings in the availability of information about Canada's criminal justice system. The Department agrees that there is room to build upon our existing relationships with criminal justice partners to enhance our national data collection and analysis capacities. Existing mechanisms include the National Justice Statistics Initiative and the Justice Information Council, chaired by the Deputy Minister of Justice, which collectively represents over 20 federal, provincial, and territorial criminal justice agencies. The Department is also one of numerous participants in supporting the Integrated Justice Information initiative.

Overall, many of the challenges raised by the Auditor General are viewed with similar significance by the Department. Last year, the Department launched a five-year Strategic Plan that responds to these issues by defining three strategic directions and related activities that will serve to focus the work of the Department in the coming years. These include serving Canadians and ensuring that the work of the Department is relevant and meets their needs; working more strategically to identify emerging issues; building on our research, analysis, and information-sharing capacity and improved intergovernmental relations; and capitalizing on our many strengths, including our presence as a department in every region of Canada.

Solicitor General Canada's response. Solicitor General Canada acknowledges that the complexity of the criminal justice system, with its many partners at all levels of government, makes it a significant challenge to deal with issues of effectiveness across jurisdictions and agencies. Success for such complex systems requires, in part, that everyone involved learn from best practices available and proceed in a consultative manner to address effectiveness issues in manageable segments. The Department is committed to working with its partners both within and outside of the federal government to maintain a high level of public safety in Canada.

With respect to the management and use of operational information in the criminal justice system, the Department is showing both leadership and significant commitment in working with its criminal justice partners to ensure that the master plan for the establishment of a Canada Public Safety Information Network is implemented. In addition, the Department agrees to assess, as soon as feasible, the impact of the Integrated Justice Information (IJI) initiative on improving the sharing of information by Canadian criminal justice agencies.

Correctional Service Canada's response. Correctional Service Canada concurs with the overall theme of the chapter regarding the need to improve the national information infrastructure, and we are working with all of our partners in the criminal justice system to improve the sharing of information on offenders. Special emphasis is being placed on improving the flow of information on newly sentenced offenders.

The Correctional Service is also taking measures to address the other topics in the chapter that relate to the Service.

Statistics Canada's response. Statistics Canada concurs with the conclusions regarding the need to identify, assess, and make improvements to national data and analytical capacity in the area of criminal justice. Statistics Canada and its jurisdictional partners in the National Justice Statistics Initiative generate a broad range of high-quality data and information with the current resources available. However, there still remain data and analytical gaps that cannot be addressed with the existing federal, provincial, and territorial funding.

About the Study

Objective

The purpose of this chapter is to identify the key challenges facing the criminal justice system and how the system is responding to them. It also identifies areas that the Office will consider examining in the future.

Scope and approach

The criminal justice system comprises numerous agencies in at least four levels of government, as well as a variety of non-government organizations. They include the federal and provincial departments of justice and the many police agencies, courts, correctional facilities, parole boards, and community service groups.

Consistent with our mandate, the study focussed on the main federal agencies responsible for criminal justice issues and statistics. These are the Department of Justice Canada, Solicitor General Canada, the Royal Canadian Mounted Police, Correctional Service Canada, the National Parole Board, and the Canadian Centre for Justice Statistics, a division of Statistics Canada. And, where appropriate, we used information obtained from provincial and municipal agencies, foreign governments, and non-government organizations.

We researched the key criminal justice issues and examined and analyzed a breadth of information on crime, offenders, and victims. We also reviewed key system-wide initiatives taken by governments and other organizations. The study took into account the roles of federal agencies and those at other levels of government.

We studied general issues that touch most people who come into contact with the criminal justice system. However, there are issues specific to certain significant groups of offenders and victims, including youth, Aboriginal peoples, women, and sick and aging offenders. We therefore looked at how the system responds to these issues while meeting more general challenges.

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Report of the Auditor General of Canada to the House of Commons—April 2002

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Chapter 5 National Defence—Recruitment and Retention of Military Personnel

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Chapter 7 Strategies to Implement Modern Comptrollership

Chapter 8 Other Audit Observations

2002

Report of the
Auditor General of Canada
to the House of Commons

APRIL

Chapter 5
National Defence—Recruitment and Retention of Military Personnel

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

The Report is available on our Web site at www.oag-bvg.gc.ca.

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Chapter

5

National Defence

Recruitment and Retention of Military Personnel

The audit work reported in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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National Defence

Recruitment and Retention of Military Personnel

Main Points

5.1 The Canadian Forces needs to fill shortages in most of its military occupations. Over 3,000 positions are vacant, many of them in key occupations such as engineers, vehicle and weapons technicians, and doctors and dentists. Currently, there are not enough trained and effective personnel in the Canadian Forces to meet occupational demands.

5.2 Today's shortages are a result of actions taken when National Defence downsized in the mid-1990s. A reduced recruiting level, cuts in human resource management, a lack of information to monitor the health of occupations, and limitations in training capacity have contributed to the current problems. Human resource managers did not have the data to guide recruiting and attrition decisions for each of the military occupations. Today, the military population is unevenly distributed; there are not enough personnel in most occupations and too many in some.

5.3 The Canadian Forces recognizes that it needs to act now to address the shortages. It has increased recruiting and wants to triple its annual intake of new regular force military members from about 2,500 to 7,000 per year as part of its three-year recruiting strategy. Efforts are also under way to examine retention and to offer options to members who are deciding whether to leave or stay.

5.4 Despite efforts, the Canadian Forces' current push to recruit has not attracted enough new regular force members to meet its target of 7,000. We found that the Department is doing good work to correct problems with the recruiting system, but the expanded recruiting efforts are themselves short-staffed. And efforts need to focus more on diversity and on recruiting Canadians from minority groups.

5.5 Previous human resource practices have created peaks and valleys in the distribution of the military population that create some gaps in rank and age distribution and in experience. The Canadian Forces needs its skilled and experienced people to stay in the military and so is looking at retention options. However, many of the retention initiatives under way will be implemented only after some members have decided to leave, and it could take the Canadian Forces as long as 30 years to achieve a stable population profile.

5.6 We are concerned that few military personnel assigned to military human resource management have previous experience or training in human resource policies and practices. While there are opportunities available to take some human resource courses, the Canadian Forces would benefit by having a knowledgeable group, trained and experienced in managing the human resource changes needed over the long-term.

The Department has responded. Overall, National Defence has agreed with our findings and told us it will look at options to improve its human resource management. It also said it will take steps to report performance measurement results to Parliament at the earliest opportunity.

Introduction

5.7 Canada's military has a ceiling on regular force membership of about 60,000. In September 2001, around 57,600 men and women were serving in the Canadian Forces. However, not all of them are available for operations. Some are not yet trained and others are on medical leave or retirement leave, or are unavailable for administrative or disciplinary reasons. At the time of our audit, about 52,300 trained and effective members were serving in the Navy, Army, and Air Force.

5.8 From 1994 to 2000, the Canadian Forces recruited fewer than half the number of people it lost. In its downsizing efforts, it brought in only 14,700 new members while about 31,500 members left. In 1996, departmental researchers warned management that low recruiting levels and an aging military population could leave National Defence short of skilled people to promote by 2003.

5.9 Personnel shortages in defence can be more difficult to correct than in other organizations because militaries usually bring in new people only at the bottom or entry level. Gaps in higher ranks are difficult to correct if not enough people are moving through the system to be promoted to those ranks.

Defence recently announced its new recruiting efforts

5.10 National Defence began a recruiting push in January 2001 to let Canadians know that it is looking for people with the aptitudes and skills to be part of the Canadian Forces. It announced that it would hire up to 7,000 people for the regular force to address what it described as a crisis. Recently, it began offering bonuses to attract recruits already trained in the trades that the Canadian Forces is seeking.

Previous audits have reported on military human resource management

5.11 As far back as the 1990 Report, the Auditor General commented on the need for a long-term focus in managing military personnel. The audit of human resource management in the Canadian Forces had found that National Defence needed to review its conditions of service, its training, and its lack of information for managing human resources.

5.12 In our 1996 chapter, Peacekeeping, we noted gaps in National Defence's planning for deployments and rotations and a lack of collective training.

5.13 In our 1998 chapter, Expenditure and Workforce Reduction in Selected Departments, we found shortages in the Canadian Forces vehicle technician trade and six army combat trades.

5.14 In 2000 the Auditor General warned again that the Canadian Forces needed to review training, and especially needed information to develop performance measures and forecast needs.

5.15 Most recently, in December 2001 we reported that the Canadian Forces was short of maintenance technicians, that 15 percent were not qualified for the jobs they occupied, and that 50 percent lacked required training.

Focus of the audit

5.16 We conducted our audit to assess whether the Canadian Forces is meeting its goal of having a trained and effective workforce in each of its military occupations. We examined whether National Defence is fixing the problems that led to its current personnel shortages.

5.17 Further information on our audit objectives, scope, and criteria can be found at the end of the chapter in the section About the Audit.

Observations

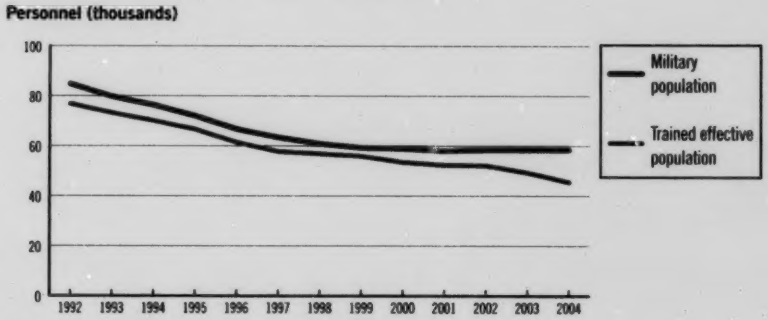
The Canadian Forces does not have enough people in most of its military occupations

5.18 The term "trained effective strength" refers to the number of people in the military who are trained and available for duty. Military force planners estimate the number of people needed in each of the 105 different military occupations; the goal of human resource management is to keep the trained effective strength of each occupation as close to the preferred level as possible.

5.19 Since 1992, the trained effective strength in the regular force has averaged 92 percent of the military population. However, by 2001 the trained effective strength had fallen to 90 percent, and initial departmental projections showed that it could drop to below 80 percent by 2004 (Exhibit 5.1). The Department expects that people will leave the military in growing numbers over the next several years, and the Canadian Forces must find and train their replacements.

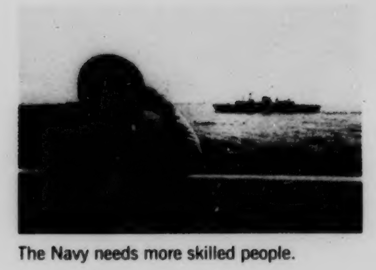
5.20 The number of trained effective people in some military occupations is already very low. For example, we found that the military has only about 80 percent of the preferred number of naval electronics technicians and only 75 percent of fire control system technicians.

Exhibit 5.1 The Canadian Forces' trained effective strength



Source: National Defence

5.21 Overall, we found that the Canadian Forces had 3,300 vacant positions in 72 of its occupations, but 21 occupations had a total of 900 people too many. Twelve occupations met their preferred level.



The Navy needs more skilled people.

5.22 **The Navy needs people with technical skills.** The Navy has many skilled and demanding occupations, which it needs to go to sea. Any shortages in just a few skills can mean that a ship may have to deploy without enough people or enough fully trained people, or that it may not be able to deploy at all. For example, HMCS *Huron* has been tied to the dock since October 2000, partly because the Navy cannot provide it with enough skilled sailors to put to sea.

5.23 The Navy needs to find and train more naval weapons technicians, communicators, sensor and electronics operators, and engineers. Attrition in its sea combat occupations is high; it loses those people early in their careers. Further, the Navy is concerned about higher-than-average attrition among women.

5.24 Although it has been recruiting, the Navy was still short of trained people in 15 of 21 naval occupations at the time of our audit.

5.25 **The Army needs technicians who can keep its equipment operating and help maintain combat capabilities.** Weapons technicians, fire control systems technicians, engineers, and vehicle technicians are below their preferred levels and not yet showing signs of recovery.

A field infantryman positions barbed wire during a field exercise, Operation Eclipse, Eritrea.

5.26 Attrition in the combat arms occupations, particularly in the infantry, has been concentrated in the first three years of service, when 72 percent of non-commissioned infantry members leave the Canadian Forces.

5.27 Many Army occupations are improving in strength, but 10 of 15 were still short of personnel at the time of our audit.

5.28 **The Air Force is concerned about its personnel.** The Air Force is in better shape than the two other service environments, but it is still concerned about the numbers of its pilots, engineers, and technicians responsible for avionics and electronics.

5.29 The Chief of Air Staff recently noted that "the most critical area for the Air Force is the attrition of experienced pilots, degrading the Air Force's ability to perform its operational mandates and regenerate qualified air crew. In addition, we may face very high attrition in 2003 when the obligatory service generated by the Pilot Terminable Allowance program finishes." The Pilot Terminable Allowance was introduced in 1998 as a bonus to pilots who agreed to stay for a five-year extension. About 800 allowances were offered and about 550 were accepted, at a total cost of $35.8 million.

5.30 We found that 7 of 14 Air Force occupations were short of personnel.

The common occupations need the most attention

5.31 The most serious shortages are in the common occupations that account for almost 40 percent of the Canadian Forces population. Of the 55 occupations common to the Navy, Army, and Air Force, 40 are short of trained people. We found that many of these occupations are under more stress than others because they have had higher attrition and fewer recruits since 1999.

5.32 For example, we found that many medical categories, such as dentists and doctors, are staffed at around 20 percent or more below identified needs. Many engineering technician occupations are similarly short-staffed, as are other, more specialized occupations such as lawyers and chaplains.

Shortages are affecting priorities

5.33 The Vice Chief of the Defence Staff has set priorities for staffing regular force positions in order to have people where and when they are needed most. These range from priority one to priority six.

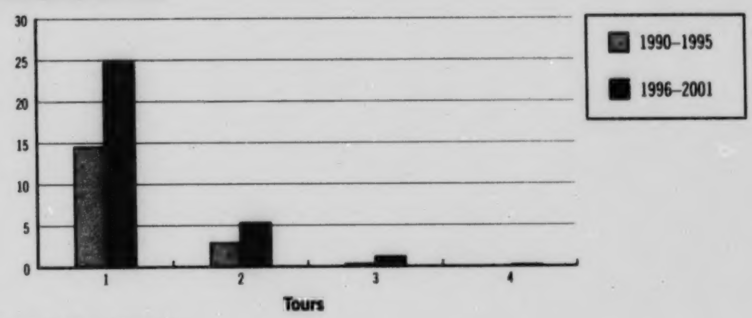
5.34 Priority one units—for deployments, international commitments, and selected high-readiness units—should be staffed at 100 percent. Two of the largest overseas deployments, Operation Palladium (Bosnia–Herzegovina) and Operation Augmentation (Persian Gulf), had close to 100 percent of personnel who were qualified for their assigned positions. However, we looked at data available in September 2001 on 131 other priority one units and found that only 83 were staffed at 100 percent. The Canadian Forces did not have the personnel to fill 567 of the 5,011 positions in 48 units. Many of these vacancies were in search-and-rescue squadrons and regiments getting ready to deploy. Furthermore, often positions in some NORAD, NATO, and attaché postings were not filled.

5.35 We also looked at staffing in 65 priority two units. These units are important to future operational effectiveness and include concept and doctrine centres, recruiting centres, policy and planning, and joint operations. Priority two units should be staffed at 98 percent, but only 18 of the 61 units we examined met this requirement. Those that did were mainly postal units or public affairs offices. Some recruiting centres, intelligence and communications units, and units needed for policy and planning were short-staffed.

Deployments are increasing the workload for everyone

5.36 Shortages of skilled and experienced people come at a time when deployments for the Canadian Forces have been increasing (Exhibit 5.2). In 1996, we found that 18 percent of the military personnel deployed between 1990 and 1995 had been deployed more than once for six months or longer. We decided to revisit that analysis in this audit, and we found a significant increase in the number of people called on to serve overseas for six months or longer.

Exhibit 5.2 Military personnel on deployment, 1990–1995 and 1996–2001



Source: National Defence

5.37 Between 1996 and 2001, Canada sent twice as many military personnel on deployments of six months or longer as it did from 1990 to 1995. Nevertheless, we found that only 21 percent had been deployed more than once, slightly higher than we found in 1996.

5.38 However, deployments are increasing and the military workforce is smaller, which means that fewer people are staying behind to do the tasks at home. We found that Canadian Forces members often cited conditions of work, including workload, as a contributing factor to dissatisfaction with the military. Conditions of work and family concerns, which include the amount of time spent away from family, were the two most common reasons given for leaving the military.

More data are needed to study the personnel tempo

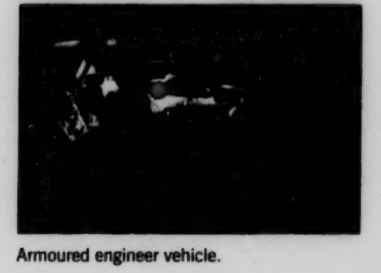
5.39 The Department is currently examining how much time members have had to spend away from their families, or "personnel tempo." Early results of the Department's Quality of Life survey suggest that members think they spend too much time away. While it has data on operational tempo, or time on deployments, the Department has no data on how much time members are also called away for other reasons, for example, attending courses, on temporary assignments at recruiting centres, instructing at recruit schools, or filling in where other people have left.

5.40 National Defence has issued an administrative order directing that a member cannot be asked to leave home for at least 60 days after returning from a deployment and will not be deployed again for another 12 months. Exceptions are made if the member signs a waiver, but we found that very few waivers have been submitted. While keeping people at home alleviates concerns about the time spent away from families, it does not address concerns about increased workload.

5.41 We should note, however, the recent increase in waivers submitted by military personnel to be available for deployment to Operation Apollo (Afghanistan).

Some challenging military occupations

Army engineering officer



Armoured engineer vehicle.

Engineers help keep the Army moving and fighting. They build bridges and roads, construct camps for troops, and provide detailed maps and other necessities that enable the Army to do its job. They deploy with the troops and have been part of 35 different deployments in the past six years.

Right now, the Army does not have enough construction and cartography engineers, and it has not been able to recruit as many as it had hoped at a time when attrition is up. These groups are under stress and have been for the last three years. Combat engineers, however, are at the needed level.

It takes four to five years to train an engineer, so today's recruits will not be able to alleviate shortages for some time. The Army needs to attract people who already have an engineering degree; in February 2002, the Canadian Forces announced that it would be offering recruiting allowances of up to $40,000 to trained engineers interested in joining the military.

Ammunition technician (Ammo tech)

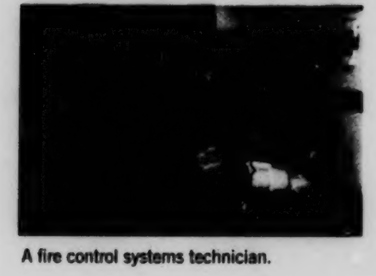
Ammunition technicians during Operation Palladium, Bosnia–Herzegovina.

Ammo techs handle the military's ammunition, maintain it, and dispose of it so that no accidents happen and no one gets hurt. This job can be dangerous, and the military will bring in only people who have already proved themselves in another military occupation.

Ammo techs work in battalions and in squadrons to make sure munitions are safely stored and loaded. They are in high demand for deployments and have been part of at least 70 tours since 1996. When the Canadian Forces deploys, ammo techs often go too.

This is considered a wartime position, so during peacetime many ammo techs serve as supply technicians. Nevertheless, the skills are still needed and the Canadian Forces is currently about 21 percent short of the ammo techs it needs.

Fire control systems technician (FCS tech)



A fire control systems technician.

The Canadian Forces relies on FCS techs to keep its high-tech systems working, for example, the low-level air defense systems, the electronic surveillance systems in the light armoured vehicles, and the electrical and optronic systems in the Leopard tank. These systems are vital during operations; if they break down, it is the FCS techs who get them working again.

FCS techs also keep power generators and air-conditioning systems working. Both are very important to troops on deployment who need to store medical items and food. FCS techs go overseas when the Army and Air Force go; when there are shortages, those who are available may be called on to go more often.

The military is short of FCS techs and recruiting has been low. This is a highly trained group whose skills are in demand in the private sector, and some members have chosen to leave the military. Understaffing in this occupation puts stress on the military's ability to maintain and repair equipment as quickly as it may need to.

Medical assistant (Med A)

A doctor and a medical assistant (right) care for a patient during Operation Palladium, Bosnia–Herzegovina.

Med As are the military's paramedics and nursing assistants. They help medical staff care for sick and injured personnel, provide trauma support, and carry out transport and rescue missions. Med As are on board ships, in support units, and in the air. They deploy with the troops and routinely work in physically and mentally demanding conditions. They have a high operational tempo because when the military deploys, it cannot go without Med As.

Because there is a shortage of doctors and nurses, Med As are being called upon to do more, especially in triage situations or to aid doctors by making the initial assessments of patients. Med As are key to helping the Canadian Forces cope with its medical shortages.

This occupation feeds other medical groups such as operating room technicians, preventive medicine technicians, and aeromedical technicians. Any shortages in the Med A group will affect the others later on. Currently, Med As are at a healthy strength and the Canadian Forces has kept their recruitment on track.

Naval electronics technician (Communications)—NE tech (C)

A naval electronics technician (communications) checks equipment.

Naval ships need to be able to communicate ship to shore, with other ships, and with nearby aircraft. NE techs (C) keep the ship's internal and external communications equipment and systems up and running. They ensure that the radio, navigation equipment, and beacon aids that are vital to the safety of the ship and everyone on board are working properly.

These technicians are highly skilled and train for more than a year just to qualify at the entry level. Journeyman military occupational training in mathematics and electronics is required before NE techs (C) can advance beyond the basic level. The Navy needs to invest in these people to make sure it maintains key capabilities.

NE techs (C) are important to the Navy for another reason: ships' crews rely on the ship-to-shore link to keep in touch with loved ones back home while they are away at sea.

Although this occupation is short of personnel, enough are in training that it is expected to show a healthy turnaround soon.

Recruitment

The current focus is on recruiting more people into the military

5.42 We found that the Department has taken action to improve its systems and practices for identifying recruiting requirements. It has reinstated the annual review of military occupations, developed the Strategic Intake Plan to provide direction on recruiting numbers, and identified priorities for recruiting centres. It is monitoring results through the Production, Attrition, Recruiting, Retention Analysis (PARRA) report, which is updated monthly.

5.43 Recruiting centres are speeding up their processes and will be implementing the Canadian Forces Recruit Information Management system to keep better informed of the status of recruiting efforts across Canada.

5.44 The Department has also taken action to position itself as a career option for young Canadians. Fewer Canadians are exposed to the military today than a generation ago. The Department is aiming to raise awareness of

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5.43 Recruiting centres are speeding up their processes and will be implementing the Canadian Forces Recruit Information Management system to keep better informed of the status of recruiting efforts across Canada.

5.44 The Department has also taken action to position itself as a career option for young Canadians. Fewer Canadians are exposed to the military today than a generation ago. The Department is aiming to raise awareness of the Canadian Forces through increased advertising, supported by a performance measurement plan. Spending on advertising increased from $3.68 million in April 2000 to $13.78 million in March 2001.

5.45 Budgets were also increased in 2000–01 for recruiting centre attraction activities at the community level. However, it took another year to begin co-ordinating activities to help recruiters focus their efforts better. A co-ordinator recently began working with recruiting centres to develop performance measures and plan activities.

5.46 In July 2001, the Treasury Board approved recruiting allowances for 19 occupations to help National Defence attract recruits who already have the skills it needs. Up to $20,000 is available to enrollees who can demonstrate their qualifications and who complete military training. These include, for example, electrical or communications technicians, X-ray technicians, and those with police training. By offering an allowance, the Department is aiming to get people quickly into occupations where they are needed most, especially those with long training periods such as naval electronics technicians, who can train for over a year. This also helps the Department avoid training costs it would otherwise incur.

Despite efforts, recruiting is below targets

5.47 During the first three quarters of 2001–02, the Canadian Forces was able to recruit about 63 percent of the non-commissioned members it needs and about 55 percent of the officers it needs. The Department expected to bring in about 4,800 new members by the end of December 2001 but recruited only 3,655 into the Canadian Forces.

5.48 While recruiting efforts have increased intake above the levels of previous years, not enough people are entering some occupations to start moving them toward recovery. We found that 29 of the 105 occupations attracted fewer than 50 percent of their year-to-date intake target, including the following:

- dentists, doctors, physiotherapists, pharmacists, and nurses;
- land communications information systems technicians;
- fire control systems technicians; and
- airfield engineers.

5.49 Some occupations have surpassed their recruiting requirements for the year. They include field engineers, communications researchers, cooks, and stewards, all occupations that were already overstaffed. Because of the ceiling on personnel and the limited number of recruits the Canadian Forces can accept, enrolling recruits into an overfilled occupation can be at the expense of an underfilled occupation. We found that the Department continued to accept recruits into occupations that did not need more personnel.

5.50 Overrecruiting occurs when the Strategic Intake Plan, which states how many recruits are needed for each occupation during the year, is not adhered to. The Department says it will take the overages into account as it develops its intake plans for these occupations in the second and third years of the recruiting strategy.

Diversity recruiting needs more work

5.51 The Minister's Advisory Board report, *Gender Integration and Employment Equity 2000*, found that designated groups combined made up fewer than 17 percent of the military population. Since the Canadian Forces has traditionally been made up of young, white males, it has not reflected Canada's demographic make-up.

5.52 Recruiting centres have begun using contact surveys to collect information on who is visiting the centres to find out about joining the military. At the time of our audit, about 5,000 surveys had been filled out and analyzed for the September 2001 Contact Survey Report. The data collected show that the Canadian Forces is still attracting young, white males, mainly English-speaking.

5.53 The Department recognizes that it needs expertise to guide diversity recruiting and training. It recently contracted with a firm to train recruiters in diversity by March 2002.

5.54 It is also moving ahead with programs to give Aboriginal youths the chance to try the Canadian Forces and then decide if they want to join. It is advertising the Aboriginal programs through posters.

5.55 Attraction and diversity activities are starting and will need to be sustained, but it is too early to tell whether efforts are reaching minority audiences. The limited data available, however, indicate that more work is needed.

Some recruiters are hard to find

The Navy's recruiting bus in Halifax.

5.56 A challenge for recruiters right now is to ensure that there are enough of them to do recruiting. Staffing recruiter positions is a priority two. However, we found that most recruiting centres were short of recruiters, even though the Department is augmenting their numbers with personnel on short-term assignments. Recruiting centres overall were staffed at about 90 percent of needed levels.

Post-basic recruit training is showing signs of strain

5.57 The basic recruit training school at St-Jean–Iberville responded quickly to the need to double its annual capacity and train up to 6,000 enrollees. During the current recruiting surge, the Navy, Army, and Air Force as well as the training system at CFB Borden have been called upon to train enrollees when St-Jean is at full capacity. Currently, the Army is conducting most of this training at CFB Gagetown.

5.58 However, bottlenecks in the system are beginning to show. Upon completing basic recruit training, members go on to their respective trades or occupational training. We found that more members are waiting for spaces to open at the trades schools, and the waiting time is increasing between the end of basic training and the start of instruction to become a skilled technician. This was identified as a risk in the recruiting strategy and will have to be addressed by the Canadian Forces.

Retention

More people are expected to leave

5.59 The Department projects that a large group of skilled and experienced members could start leaving the Canadian Forces by 2004. This could create a gap in experience because the distribution of the military population shows that it is short of people to fill the vacancies created by those who will be leaving (Exhibit 5.3). The June 2001 Naval Retention Action Plan warned that given "the present Canadian economy, coupled with the impending retirement of the baby boomers, the Canadian Forces should anticipate increased attrition as the bulk of our personnel [become eligible to leave] simultaneously."

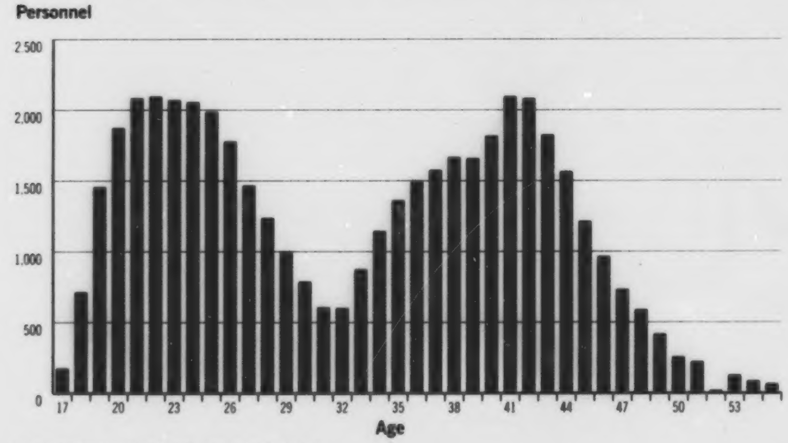
5.60 We also found that many members will soon have enough years of service to be eligible to leave and, again, there is a shortage of people behind them to fill in (Exhibit 5.4).

5.61 Because the military generally fills its ranks internally by bringing in recruits and officer cadets and working them up through the military structure, there is currently little opportunity to fill this demographic trough. People must be trained and gain experience before they can be promoted to fill the empty positions, especially positions whose responsibilities include leadership.

5.62 We reported in our December 2001 chapter, National Defence In-Service Equipment, that because of shortages of skilled people, some people were being promoted to, or acting in, positions for which they were not yet fully qualified.

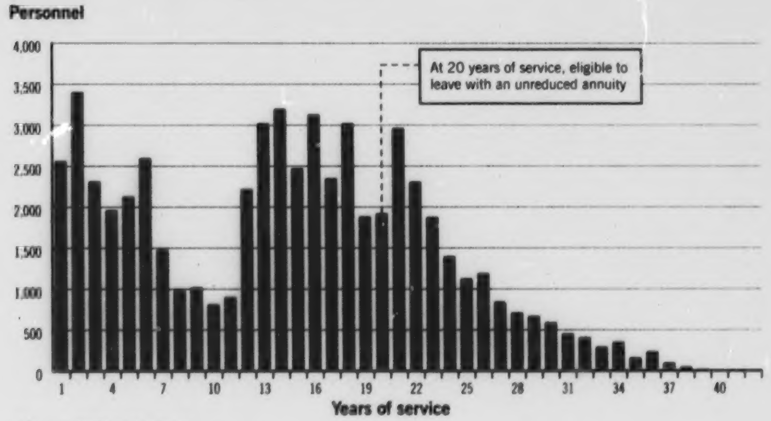
5.63 Peaks and valleys in the distribution of the military population will have to work their way through the Canadian Forces. Departmental research staff estimate that, depending on recruiting success, it could take up to 30 years before the military population profile is such that the right numbers are available with the skills and experience to match the demand.

Exhibit 5.3 Projected distribution of non-commissioned member personnel for 2007



Source: National Defence, forecast in 1997

Exhibit 5.4 Years of service in the Canadian Forces



Source: National Defence

Experienced people are needed

5.64 Despite the Department's efforts, attrition is still a problem in some groups. For several years the Department did not track reasons for leaving, and now it does not have complete or reliable data that would help it to focus retention efforts. Some survey work that has been completed indicates that most military members who leave voluntarily do so for the following reasons:

- family concerns, for example, stability and the impact of regular moves, spousal employment, or the time spent away from families (personnel tempo);
- organizational climate and morale, including the conditions of service, workload, and the perception that better employment is available elsewhere; and
- concerns about leadership.

Troops moving camp.

5.65 In July 2001, the Department defined its retention strategy and initiatives to encourage skilled and experienced members to remain in the Canadian Forces. Some initiatives are in place to address current attrition, such as extending the compulsory retirement age to 60 years. The Department has made progress on the Quality of Life initiatives, reporting that it has completed 55 of the 89 recommendations by the House of Commons Standing Committee on National Defence and Veterans Affairs. Progress includes instituting pay increases, creating the Centre for the Care of the Injured, improving military housing, and putting in place projects to support military families.

5.66 The Canadian Forces recently completed a Quality of Life survey to find out whether the concerns of members and their spouses are being addressed and to establish a baseline for measuring future progress. The survey showed low satisfaction with progress on initiatives that members feel are the most important; it also showed that communication about initiatives needs to be improved. Nevertheless, 50 percent of respondents said that quality of life in the Canadian Forces was good or very good.

5.67 Members who leave have expressed concerns about leadership. The survey work available indicates that their views on leadership have been shaped by the inability to get adequate equipment, failure to address personnel tempo, poor communications, and lack of direction.

5.68 Because the Department has not analyzed why people leave the Canadian Forces voluntarily, it must now get reliable information before it can develop appropriate retention initiatives. By mid-2002, the Department expects to have an updated version of its Canadian Forces Attrition Information Questionnaire and to have a formal exit interview process in place. The Director Military Human Resource Requirements and the Director Military Employment Policy are working with managing authorities for the occupations to identify attrition patterns and address them.

5.69 The Navy, Army, and Air Force have each mandated a group to work on improving retention. The Navy and Air Force have developed retention strategies and taken some action on their own, for example, providing allowances for pilots and increasing opportunities for promotion. Progress on retention initiatives is to be reported to the ADM Human Resources (Military). The Army has recently begun developing its retention program.

5.70 Other retention initiatives will be implemented over a longer time frame and we are concerned that longer-term changes will be made only after the group soon eligible to leave has left. The examination of personnel tempo has a completion date of 2002. Work to make the terms of service more flexible has begun but will not be completed until 2004. The review of the military occupation structure is to be completed in 2005.

5.71 Female attrition has been higher than male attrition. Between 1989 and 2000, the overall rate among women was 7.6 percent; it was 6.9 percent for men. Data on attrition in minority groups are not available. We found few retention initiatives aimed at women or minority groups. In the December 1999 Canadian Forces Employment Equity Plan, the Department had expected that all its employment equity plans for the Navy, Army, and Air Force, as well as corporate-level plans, would be completed by February 2000. However, their completion is now expected in spring 2002.

What other countries are doing

5.72 Other militaries besides Canada's are facing recruiting and retention challenges. We looked at approaches in the United States, the UK, and Australia and found a few common themes (see "Recruitment and retention efforts in other countries" on page 15). Recruiters are finding that today's youth are looking for opportunities to improve their education and develop skills that are marketable in the private sector. Bonuses and incentive programs are used to attract these people. Recruiters are also finding that they need to get their image out to potential recruits and are increasing their advertising budgets.

5.73 People with skills in some specialty occupations need to be retained. Re-enlistment bonuses are offered by some as an incentive to stay; the Australians are also looking at more flexible work conditions.

Recruitment and retention efforts in other countries

The United States

The five services (Navy, Army, Air Force, Marine Corps, and Coast Guard) are doing similar things under separate programs. All offer enlistment bonuses that hinge on enlistees' finishing their terms of service. Advertising budgets have increased, and re-enlistment bonuses are used to keep skilled people in critical specialties, for example, nuclear technicians and medical specialists.

Bonuses can be given to sign up for an extended contract, to put money away for college, or to pay a college loan. Enlistees can be paid while going to college and then serve upon graduation. The Army is also working with the private sector to guarantee jobs to specially trained people after they finish their service.

More people have been assigned to recruiting centres, and some forces are using younger recruiters who are going out to the schools, communities, and college campuses. Recruiting centres are also being located in areas where they are more visible.

Also, serving members referring applicants who enlist are eligible in some cases for rewards. Incentive programs reward the success of some recruiters, although the General Accounting Office has stated its reservations about the effectiveness of these programs.

The United Kingdom

The UK uses similar financial incentives. Its recruiting incentives focus on signing potential recruits before they finish university and enter the job market. Recruits have their education paid for, with an obligation to serve upon graduation; or they can join the service and receive a salary while at university, with an obligation to spend some time in training.

The UK also lets potential recruits try the Army before deciding to join. The Gap Year Commission lets students taking a break from their studies enrol in a three-week training period, after which they join a regiment and assume officer duties.

Australia

The Australian Defence Force (ADF) views recruiting and retention as equally urgent. It offers retention bonuses for some specialist trades and is looking to bring back former members who left for the private sector but would like to return to the military.

The ADF has a Lifestyle campaign to dispel misconceptions about military life and improve the public image of the Navy, Army, and Air Force. Educational opportunities are also used to attract recruits by giving defence personnel nationally recognized qualifications for their defence training.

Communications are also directed internally to inform members about the benefits of military service. New ways of looking at careers and work in defence are adding flexibility to the workplace, for example, allowing some members to work part-time.

A private sector firm was contracted on a trial basis to handle recruiting and increase intake, but it has been less successful than was hoped.

5.73 People with skills in some specialty occupations need to be retained. Re-enlistment bonuses are offered by some as an incentive to stay; the Australians are also looking at more flexible work conditions.

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A private sector firm was contracted on a trial basis to handle recruiting and increase intake, but it has been less successful than was hoped.

Managing change in military human resources

5.74 The Assistant Deputy Minister (ADM) Human Resources (Military) produced the first annual Long Term Capability Plan (Human Resources) in November 2000 to give order and corporate visibility to its human resource projects, estimated to cost about $142 million for 2001–02 and $164 million for 2002–03. Because the plan is presented to senior defence management and spending is approved by the Program Management Board, human resource issues are brought to senior management's attention. Human resources was the top departmental priority last year and is again this year.

5.75 We examined six of the largest projects and found that they are generally on track and managed well. However, we found that the issues addressed in the projects were identified through external reviews rather than internal analyses of military human resource concerns.

5.76 Few military staff in human resource management have previous experience or human resource expertise to bring to the projects. The Canadian Forces does not have an occupation that is specific to managing its almost 60,000 military personnel. Personnel are assigned to this area on a rotational basis as part of the regular posting cycle, and they arrive with valuable military knowledge but often limited experience in human resource policies and planning. The Department is providing the opportunity to take some human-resource-related courses.

5.77 As far back as 1990, the Auditor General reported on the need for better performance information to manage human resources in the military. We found that many separate groups were looking at resource requirements and gathering their own data. Most of the information gathered was for special requests or research, but little was used for ongoing monitoring.

5.78 The ADM Human Resources (Military) Business Plan 2002–03 calls for performance measures to monitor and report on intake, attrition, morale, professional development, and quality of life. We encourage the Department to develop these measures and track progress. The Department is also conducting surveys on quality of life and attrition; it recognizes that if these efforts are to be worthwhile, data must be collected regularly and trends monitored.

5.79 The ability to take appropriate action based on what performance measures indicate about attrition, morale, quality of life, and other areas would benefit from knowledgeable and experienced military human resource managers who can identify issues and be part of the change process over the long term.

5.80 In order to conduct trend analyses and to monitor improvements, human resource managers need reliable information on results. We found that not all the data are consistent and not all users find the data reliable or timely. We had difficulty getting some information, for example, on how many members are in the Canadian Forces, how many members are on the Supplementary Personnel Holding List, and what the actual attrition rate is in the Canadian Forces. We got different answers depending on whom we asked. We found that data used for personnel management are not always consistent or reliable.

Conclusion and Recommendations

5.81 The Department's activities to address personnel shortages in its military occupations are ongoing, and its strategies for recruitment and retention have identified what needs to be done. However, recruiting and retention initiatives need to be developed together, and the Department has not fully integrated these two strategies. Recruiting initiatives are now under way to address immediate concerns, while retention initiatives are being developed to implement over the next few years.

5.82 While the Department is doing good work to bring in more recruits, it will have to address longer-term issues of human resource management, especially as it develops initiatives in response to current work on quality of life and conditions of service, matching of military requirements and changing demographics, and its efforts to address family concerns and personnel tempo. The Canadian Forces would benefit by having dedicated human resource professionals who are knowledgeable about both the military and human resource policies and practices.

5.83 **Recommendation.** The Canadian Forces should consider adopting a human resource management occupation to ensure that it maintains the experience and expertise it needs to identify issues, develop policy, and implement changes over the long term.

National Defence's response. The Department will assess the benefits of adopting a professional human resource career field. This will be done in conjunction with a major ongoing project that is examining how all Canadian Forces occupations should evolve to meet future requirements. A series of options for institutionalizing this expertise will be examined.

5.84 Recruiting has undergone some significant changes in overall attraction, intake, and production. The Department has been successful in bringing more people into the Canadian Forces, though not yet at the levels it has targeted. Intake imbalances still exist in occupations; despite strategic intake plans and better monitoring of the staffing levels by occupation, some occupations are getting more recruits than they need and others are not yet showing signs of recovering effective strength.

5.85 The demographics of the Canadian Forces dictate that knowledgeable and skilled people will be leaving, and there is a shortage of personnel behind them to fill vacancies. Many of the retention initiatives will not be implemented until after 2003, by which time many personnel will already have decided to leave. Bringing people in at the bottom means that problems at the higher ranks will be difficult to fix. The Canadian Forces is fast-tracking some people into the corporal rank and this may be applicable to other areas. Nevertheless, it could take up to 30 years before peaks and troughs in the demographic profile level out enough to stabilize the military population.

5.86 Recommendation. As it reviews the terms of service and the military occupation structure, the Department should consider all options, including recruiting experienced people into its higher ranks.

National Defence's response. The Department will continue to consider all options. A number of initiatives have been proposed for future development, including more flexible career paths. This would enable Canadian Forces personnel to leave and re-enter the service more easily and acquire broader skills and expertise while doing so. As part of its current recruiting efforts, the Canadian Forces is actively examining its policies for re-enrolment of personnel with prior experience and skills. In some cases, this approach has already paid dividends.

5.87 The Department's information on military human resource management has not been reliable in the past. This has left it with little or no information on trends and with questionable information about who is in the Canadian Forces. Information gathering and data analysis are managed better than before, but more monitoring of results is needed. The ADM Human Resources (Military) has tasked his staff to develop performance measures.

5.88 Recommendation. Performance measures should be in place soon and the results included in the departmental performance report to Parliament. The Department should ensure that its human resource management information is accurate and up-to-date.

National Defence's response. While the Canadian Forces has already instituted a number of performance measures, we acknowledge that more are required. In that regard, steps will be taken to include performance measurement results in the departmental performance report at the earliest opportunity. The Department will also endeavour to ensure that its human resource management information is current and accurate. Information technology systems will be revised to meet identified needs. Some requirements can be easily satisfied with programming "work arounds" while others will take longer to complete. In the interim, the Canadian Forces has mechanisms to meet our informational needs.

About the Audit

Objectives

The overall objective of our audit was to determine whether the Canadian Forces is maintaining the number of trained and effective personnel it needs for the occupations it has to accomplish its task. We asked the following questions:

- Are personnel levels falling and how are shortages affecting operations?
- Has the Department identified reasons for its shortages of personnel?
- Is the Department taking appropriate steps to correct its problems?

Scope

Our audit focussed on the plans and actions of National Defence to improve its ability to attract and recruit new members to the Canadian Forces and to retain the knowledgeable and skilled members in whom it has invested time and money.

The audit was concerned with the management of human resources at the strategic level. This included activities of the Assistant Deputy Minister Human Resources (Military) in human resource policy and planning and the Environmental Chiefs of Staff in managing the occupations.

Military human resource management is broad, but the audit was limited to two key areas—recruiting research and strategies, and retention research and strategies. This included the policies and guidance that determine the main objectives of recruiting and retention plans.

We monitored departmental information to identify shortages in personnel and changes in personnel levels as recruiting and retention efforts progressed. We also looked at the long-range plans for managing and funding initiatives .

We reviewed experiences of other countries in addressing issues of recruitment and retention. We looked at the approaches that Australia, the United States and the United Kingdom have taken to deal with demographic changes similar to those in Canada and with the changing expectations of military personnel.

Criteria

We expected to observe the following:

- That the Canadian Forces military occupations were staffed to at least 90 percent of the preferred level and differences between actual levels and preferred levels were improving.
- That recruiting and retention strategies by the Department were supported by analyses of the causes and impacts, addressed the causes and impacts, and were affordable and timely.
- That the Department's recruiting and retention strategies provide stability and predictability in managing human resources.

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Report of the Auditor General of Canada to the House of Commons—April 2002

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2002

Report of the
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to the House of Commons

APRIL

Chapter 6
A Model for Rating Departmental Performance Reports

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

The Report is available on our Web site at www.oag-bvg.gc.ca.

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Chapter

6

A Model for Rating Departmental Performance Reports

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A Model for Rating Departmental Performance Reports

Main Points

6.1 Departmental performance reports are an important means for Parliament to hold ministers to account for the money their departments spend and the results they achieve. A good performance report tells a department's or an agency's performance story. It tells Parliament what difference a department or an agency has made for Canadians, by presenting a coherent picture of performance. Good performance reports should tell Canadians what value they are getting for the taxes they pay.

6.2 As we reported in 2000, federal departments and agencies have made some progress over the past seven years in improving the quality of their performance reporting to Parliament, but their progress has been too slow. In 2001, a report by the House of Commons Standing Committee on Public Accounts stressed the value of reporting on performance. The Committee asked that we continue to assess departmental performance reports.

6.3 This chapter is a response to the Committee's request. It provides a method to assess the quality of performance reports. We offer a model for rating departmental performance reports by five criteria for good reporting; the model identifies different levels of reporting.

6.4 We expect that the rating model will be one of the tools available to departments that will help them improve their performance reports more rapidly than they have in the past. When a performance report is rated on this model over a number of years, the model can also be used to assess the department's progress in reporting.

6.5 Rating a department's performance report enables parliamentarians to do the following:

- compare the report with those of other departments that have also been rated;
- ask the department to take specific steps that will improve its report; and
- assess the department's progress in improving its report if it has been rated previously.

6.6 We demonstrate the usefulness of our rating model by applying it to three recent performance reports: those of the Royal Canadian Mounted Police, Environment Canada, and Fisheries and Oceans Canada.

Background and other observations

6.7 Most federal departments and agencies submit a performance report to Parliament every fall. The report outlines what the department has accomplished over the past year toward the commitments it made in its earlier report on plans and priorities.

6.8 We first commented on this reporting regime in 1997. We found that a good start had been made and that the basic reporting framework was sound. In 2000 we followed up on that government-wide audit with another assessment of the government's progress in reporting performance. We described the strengths and weaknesses of the reporting regime and said that progress was too slow.

6.9 Since 1995, when the Improved Reporting to Parliament project began, the Treasury Board Secretariat has played a leadership role in improving the government's performance reporting regime. In its guidelines for preparing the 2000–01 departmental performance reports, the Treasury Board Secretariat included principles of good reporting and a lexicon of reporting terms.

6.10 Based on our previous work, on pilot testing of the rating model, and on consultation with a variety of experts, we have elaborated on the five criteria for good performance reporting that we introduced in 1997. They are consistent with the principles set out by the Treasury Board Secretariat in 2001. Improvements to the model will be made as we continue to use it, and further changes will be suggested by departments as they gain experience from applying it to their own reports.

The government has responded. The government is generally supportive of this chapter and our model. Its comments are included at the end of the chapter.

Introduction

Good performance reporting is fundamental

6.11 Good performance reporting is fundamental to effective accountability to Parliament for the decisions and actions of government. Confidence and trust in government are supported when Parliament is provided with fair and reliable performance information through a credible regime of performance reporting.

6.12 Good performance reporting includes information that tells Canadians what value they are getting for their taxes and, overall, the difference a department is making for Canadians. As part of the Estimates, over 80 performance reports are delivered to Parliament every fall. Good performance information can be useful to parliamentary committees in their work of scrutinizing key programs and services.

6.13 In telling Parliament and the public what has worked best and what has not, effective performance reporting can also be an incentive for departments to manage their activities for the results they have said they will achieve. Performance information used for external reporting is based on the same kind of information needed to manage internally for better results.

6.14 Every fall, in addition to the performance reports by individual departments, Parliament receives a companion report on government-wide performance, issued by the President of the Treasury Board. In recent years, that report focussed on the results of initiatives that involve departments as partners in contributing to a shared outcome. The 2001 report summarized Canada's overall performance against 19 societal indicators. This annual report has become an important vehicle for reporting on government-wide and horizontal results.

6.15 Interest in performance reporting goes back a long way. Since 1981, the Office of the Auditor General and the government have shown strong interest in improving departments' performance reporting to Parliament (Exhibit 6.1).

Basic framework for reporting is sound

6.16 In 1997 we examined the state of the federal government's performance reporting to Parliament (Auditor General's 1997 Report, Chapter 5, Reporting Performance in the Expenditure Management System). We found that the government had made a good start and that the basic reporting framework was sound. While several departments had improved some aspects of their performance reporting, we noted that Parliament received little information it could use to identify the value Canadians get for their taxes. Instead of reporting the results they had achieved, departments were largely describing their activities, products, and services.

Exhibit 6.1 A performance reporting chronology

1981	The government committed itself to provide Parliament with improved and expanded information in the Estimates. In particular Part III of the Estimates was designed to provide information to Parliament on departmental spending intentions and about performance and results produced by expenditures previously authorized.
1983	The government agreed to include summaries of program evaluations in Part III.
1988	1988 Report of the Auditor General, Chapter 5, Information for Parliament—Audit of the Estimates Documents We noted that Part III had steadily improved since 1981 and represented the best single source of information on departmental programs. However, we concluded that it did not yet provide a fully satisfactory basis for accountability. In particular our audit focussed on clarity of Part III.
1992	1992 Report of the Auditor General, Chapter 6, Information for Parliament—Departmental Reporting We observed that departmental reporting did not provide the breadth of information needed. We highlighted inconsistencies between the way departments carried out their business and what they reported. In particular we noted a weakness in reporting results, performance, and effectiveness. We also recommended more use of technologies.
1995	The government revised the Expenditure Management System. As part of this initiative, it launched the Improved Reporting to Parliament project, which split Part III of the Estimates into two documents: • Report on Plans and Priorities—tabled in the spring, it sets targets and the general direction; • Performance Report—tabled in the fall, it indicates the results achieved against those planned. Six departments piloted the new approach. The President of the Treasury Board presented the first government-wide report describing progress made by implementing results-based management in federal departments and agencies. The report is part of the fall performance package and is tabled in Parliament with the departmental performance reports.
1996	Sixteen departments piloted the Improved Reporting to Parliament Project. The Treasury Board President tabled their performance reports in the House of Commons.
1997	1997 Report of the Auditor General, Chapter 5, Reporting Performance in the Expenditure Management System We concluded that progress had been made in reporting departmental performance expectations and accomplishments and that these efforts needed to be given time to mature. Nevertheless, progress had been insufficient to allow us to find examples of good practice that, collectively, would demonstrate that the key elements of adequate reporting to Parliament were provided.
1998	Most departments and agencies submitted reports on plans and priorities and performance reports.
2000	2000 Report of the Auditor General, Chapter 19, Reporting Performance to Parliament: Progress Too Slow We recognized that moving to a results-based culture is not easy and takes time. However, we expected to find noticeable progress and were disappointed that only marginal progress had been made. At the present pace it would take too many years for good reporting to become routine. The Treasury Board published *Results for Canadians,* which emphasized the importance of ensuring timely and accurate reporting to Parliament.
2001	The Treasury Board introduced the Results-Based Management Lexicon. This lexicon provided new, standardized terminology for results management and reporting. The Treasury Board published its renewed guidance to departments for the preparation of performance reports and introduced six principles for effective reporting.

6.17 We said that to improve their performance reporting, departments needed to do the following:

- focus more on the benefits they had gained for Canadians;
- report more on outcomes than on activities and outputs;
- compare their contribution to outcomes with the contribution made by other parties;
- provide more balance by including information on performance that did not meet their expectations;
- provide more information on the strengths and limitations of reported information; and
- include more information on interdepartmental and horizontal issues.

Disappointing pace of improvement

6.18 In 2000 we reported on our government-wide audit of progress made since 1997 in performance reporting (Auditor General's 2000 Report, Chapter 19, Reporting Performance to Parliament: Progress Too Slow). We noted that to improve their performance reports, departments would need to take a number of steps, including the following:

- set concrete expectations;
- use consistent terms;
- improve the reporting of accomplishments (and not report just activities and outputs);
- place performance in the context of past years (not just the latest year);
- achieve a better balance of reporting between good results and shortcomings; and
- give attention to the reliability of the data.

We said we were still disappointed by the pace at which departments were making the needed improvements to their performance reports.

Parliament's interest in improved reporting

6.19 Some parliamentarians are showing a greater interest in departmental performance reports. In 2001, the Eighth Report of the Standing Committee on Public Accounts stressed the importance of good performance reporting. The Committee also recommended that we "conduct random audits of the information contained in the performance reports of departments and agencies in order to verify, among other things, that the information contained in these reports is a fair representation of accomplishments against goals and objectives."

6.20 In response to this request, we have developed an approach for reviewing performance reports that will demonstrate how well departments are reporting. It will also provide an opportunity for departmental officials who prepare the reports to better understand the attributes of good performance reporting and how reporting can be improved. Our model for rating departmental performance reports uses five criteria or attributes of good reporting and reflects progressive stages or levels of reporting against them. The outcome of this approach should contribute to continued improvement in departments' reports.

Obstacles to good performance reporting

6.21 In our 2000 Report, we highlighted three factors that contribute to the current weak state of reporting:

- basic principles of good reporting are not understood or applied;
- performance reporting takes place in a political environment; and
- there are few incentives for good reporting and few sanctions for poor reporting.

6.22 One condition that fosters effective performance reporting is senior management that supports comparing the department's results with those in previous years and with those of similar organizations. Another condition is a political culture that supports transparency by readier acceptance of any reported shortcomings in results and of action to correct them.

6.23 Along with better conditions for reporting, there are strategies that can encourage improvement. Among them is the practice of rating performance reports and making the results public. Areas that need to improve can be identified, and exemplary reports can be recognized and applauded.

6.24 Departments' performance reports are at different stages of development, and their pace of improvement varies. While some improvements may mean a large investment of a department's resources, others can be made with current resources.

Focus of the study

6.25 This study continued our work of recent years on the federal regime of performance reporting. Our objectives were the following:

- develop a model to assess departmental performance reports;
- determine the robustness of the model; and
- determine the feasibility of using the model to provide ongoing assessments.

6.26 After developing the rating model, we tested its robustness by having different experts use it to rate four departments' performance reports. Our experts arrived at similar ratings. We also had officials from the four departments review the ratings for reasonableness. We then asked our teams who audit these departments to review the ratings. Finally, when we were satisfied that the model was robust, we used it to rate three reports, one of which was drawn from the earlier test group. These are the three sample reports discussed in this chapter that show how the model can be used. We did not audit the departments' systems and procedures for producing the information they included in the reports. Further details on our study objectives, scope, and approach are provided in About the Study at the end of the chapter.

Observations

A model for rating performance reports

Criteria for reporting

6.27 Building on our work of 1997 and 2000, we elaborated on our five criteria of good performance reporting. They should help a department produce a compelling performance story. A performance report that achieves the maximum rating by these criteria would demonstrate the attributes of exceptional public reporting:

- Organizational context and strategic outcomes are clear.
- Performance expectations are clear and concrete.
- Key results are reported against expectations.
- Reliability of performance information is supported.
- Use of performance information is demonstrated.

Each of these five criteria also includes a number of detailed subcriteria.

6.28 Taken together, the criteria represent expectations for a credible performance story. The first three reflect what has been accomplished; the other two indicate the quality and use of the performance information. The fourth criterion calls for the department to show how the reader can judge the accuracy and credibility of its performance information. However, our model is not designed to provide assurance that the information in a performance report is accurate.

Treasury Board's principles

6.29 In 2001, the Treasury Board Secretariat released guidelines for departments to use in preparing their next round of performance reports. The guidelines included six broad principles:

- provide a coherent and balanced picture of performance that is brief and to the point;
- focus on outcomes, not outputs;
- associate performance with earlier commitments and explain any changes;
- set performance in context;
- link resources to outcomes; and
- explain why the public can have confidence in the methodology and data used to substantiate performance.

6.30 The Treasury Board's principles were informed by the criteria we released in 1997 and 2000 and are consistent with our five criteria. They and our subcriteria provide a more detailed specification of what constitutes good reporting and were used in developing the model to rate performance reports. The Appendix to this chapter provides more details on the attributes of good reporting.

Levels of good performance reporting

6.31 Our model provides five levels of achievement that a good report would demonstrate (Exhibit 6.2). The fifth level represents the attributes of excellence in a performance report. By meeting each criterion of the model at progressively higher levels, performance reports will demonstrate increasing mastery of these attributes. Some of the attributes represent concrete steps a department should take in sequence to reach a higher level; others call for more of the same kind of action by the department.

6.32 The lowest level requires of the department only some basic information. This includes linking its performance expectations, expressed mostly as activities, to its mandate and mission and clearly identifying its strategic outcomes. At a higher level, we expect to see results-oriented performance expectations presented in a logical sequence, so readers can

Exhibit 6.2 Model for rating performance reports—Overview

Criterion	Level 1 (basic)	Level 2 (fair)	Level 3 (good)	Level 4 (very good)	Level 5 (excellent)
Organizational context and strategic outcomes are clear	Planned strategic outcomes at each level are increasingly placed in the context of the department's operating environment, its legislated mandate and mission, and relevant risks and challenges. They indicate how the department and its key partners will contribute to the strategic or end outcomes.				
Performance expectations are clear and concrete	Statements of performance expectations at each level are no longer just expressed as activities or outputs, but as outputs and outcomes with a direction, an amount, and a timeframe for change. They are shown in a logical sequence.				
Key results are reported against expectations	Key results at each level are increasingly expressed as outputs and outcomes that contribute to each of the planned strategic outcomes. They are accompanied with fair and balanced information on successes and shortcomings, comparisons to help interpret the results, and resources used to achieve the outcomes.				
Reliability of performance information is supported	The reliability of performance information is increasingly supported at each level to allow readers to judge its accuracy and credibility.				
Use of performance information is demonstrated	Performance information is increasingly used at each level to manage for improved results.				

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Performance expectations are clear and concrete	Statements of performance expectations at each level are no longer just expressed as activities or outputs, but as outputs and outcomes with a direction, an amount, and a timeframe for change. They are shown in a logical sequence.				
Key results are reported against expectations	Key results at each level are increasingly expressed as outputs and outcomes that contribute to each of the planned strategic outcomes. They are accompanied with fair and balanced information on successes and shortcomings, comparisons to help interpret the results, and resources used to achieve the outcomes.				
Reliability of performance information is supported	The reliability of performance information is increasingly supported at each level to allow readers to judge its accuracy and credibility.				
Use of performance information is demonstrated	Performance information is increasingly used at each level to manage for improved results.				

judge how much the department's activities and outputs have contributed to the outcomes. A rating model with a number of levels allows a department to identify the stage it has reached with its performance report.

6.33 The model characterizes the five levels for each of the five criteria as basic, fair, good, very good, and excellent. The model is anchored at the lower end by what our work has shown is the bare minimum for performance reporting. The upper level represents excellent reporting. We believe this level of reporting is within reach of most departments if they sustain steady progress.

6.34 We derived these levels from extensive audit work and reviews of performance reports. We also obtained expert advice on what steps departments should take at which levels. Nonetheless, we are still developing our model and expect to continue adjusting it as we use it to rate performance reports.

6.35 We have incorporated some flexibility in the model, in light of the many changes asked of departments since the Improved Reporting to Parliament project began in 1995. For example, in its 2001 guidelines for departmental performance reports, the Treasury Board Secretariat encouraged departments to place greater emphasis on reporting their results by strategic outcome rather than by business line. Because many departments are still making that transition, we designed the rating model to accommodate either way of reporting results. If a department were to report on its operations both by strategic outcome and by business line, we expect that it would show in its performance report how the two were linked.

Need for logical and consistent terms

6.36 In the many performance reports we have reviewed, we have found that the terms used by departments and by the Treasury Board Secretariat have changed over time. Some departments continue using the same terms, instead of alternatives the Secretariat has encouraged with its 2001 Results-Based Management Lexicon. For effective communication and better understanding, a common set of terms still needs to be used more consistently.

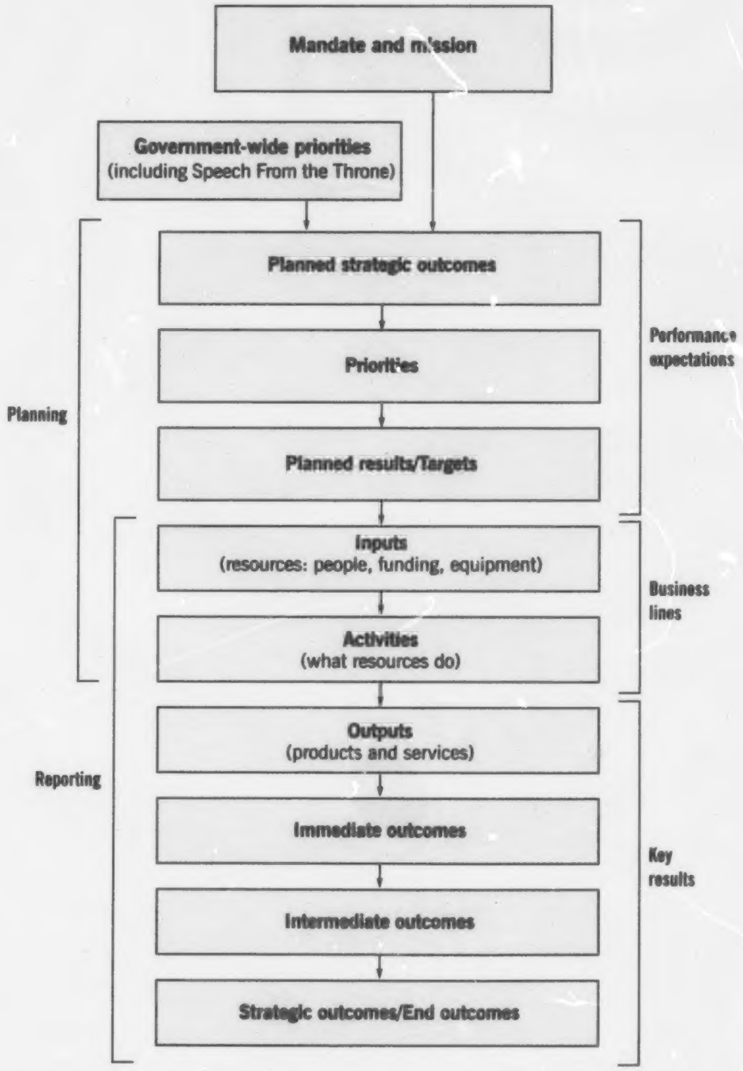
6.37 Rather than attempting to precisely define each term, we applied the model to the logical relationships underlying the different concepts. Exhibit 6.3 sets out a framework that identifies the main terms used for planning and reporting performance. These terms are consistent with the Treasury Board Secretariat's 2002 guidelines for preparing reports on plans and priorities.

6.38 The planning and reporting framework is built on the same logic that underpins a results chain. In addition to activities and their outputs, results chains traditionally use immediate outcomes, intermediate outcomes, and end outcomes. These three outcome levels should be able to capture all the key results a department reports. However, the level of detail a department chooses for reporting results depends on how specific it wants to be in stating its performance expectations. We suggest that the level of detail chosen for both the planning stage and the reporting stage be similar.

The results chain

6.39 The results chain can be a useful tool for effective and credible performance reporting. Also known as a logic model, a results chain links a department's performance expectations to its key results. Results chains are a convenient way to summarize the benefits a department provides for Canadians.

Exhibit 6.3 Terms for planning and reporting performance


Mandate and mission
Government-wide priorities (including Speech From the Throne)
Planned strategic outcomes
Priorities
Planned results/Targets
Inputs (resources: people, funding, equipment)
Activities (what resources do)
Outputs (products and services)
Immediate outcomes
Intermediate outcomes
Strategic outcomes/End outcomes
Planning
Reporting
Performance expectations
Business lines
Key results

6.40 Applying the logic of the results chain to the planning stage helps a department identify how its interventions can contribute to a planned outcome. Applying this same logic to the reporting stage helps it present the evidence of its contribution to that outcome.

6.41 Using the logic of a results chain may make it easier to handle the question of attribution. Departments may be involved in activities that produce outcomes shared by partners—for example, other federal departments, other levels of government, the private sector, the non-government sector, and the local community. Shared outcomes can be associated with horizontal initiatives; some horizontal programs involve several federal departments, while others also involve other levels of government. A results chain can help a department show more precisely its own contribution to a shared outcome that includes contributions by its partners, stakeholders, and others.

6.42 Results chains can identify factors over which a department has limited control. More elaborate results chains can show the positive and negative unintended consequences of a department's activities.

Improving performance reports

6.43 Our model is designed to rate performance reports by a set of criteria. It can be used to rate previous reports and compare them with current and subsequent reports to assess a department's progress. The rating of a department's performance report gives Parliament a basis for

- comparing the report with those of other departments that have also been rated,
- asking that a department take concrete steps to improve its performance report, and
- when a department's report has been rated previously, assessing the department's progress in improving it.

6.44 When a department uses the rating model to assess its own performance report, it can locate the level of reporting it has reached. That level should suggest some next steps the department can take to help advance its performance report to a higher level.

6.45 Major steps to improve reporting that may take a significant investment of resources could include acquiring information technologies that provide information on results. Other steps can be taken with existing human and financial resources, such as using a results chain.

6.46 Offering our rating criteria now may encourage departments to carry out self-assessments using the model and improve their next reports. We designed the model to be sensitive enough to identify improvement on a number of dimensions. A review of a department's report by the Office of the Auditor General, combined with departmental self-assessment and improvement, should help departments make faster progress in improving their reports.

Applying the model

Three reports used to illustrate the ratings

6.47 We invited three departments to have their 2000–01 performance reports rated against our five criteria so we could demonstrate in this chapter how the rating model would work. The reports were provided voluntarily and do not represent any trends in performance reporting across government.

6.48 The three reports include some innovative elements and serve as benchmarks for testing the rating model. The Royal Canadian Mounted Police won the first CCAF–Treasury Board of Canada Award 2001 for the Pursuit of Excellence in Public Performance Reporting (for large departments with budgets over $0.5 billion) with its 1999–2000 *Performance Report*. Environment Canada has consistently produced performance reports with strong components. Fisheries and Oceans Canada has moved from reporting results by business line to reporting them by planned strategic outcome, while providing an excellent crosswalk between the two ways of reporting.

Methods of rating the reports

6.49 We do not give the reports an overall rating, nor a detailed rating by subcriterion, because our purpose here is to illustrate the kind of analysis that will support the model. Exhibit 6.4 summarizes our rating of the reports by each of the five criteria, using an average score.

6.50 There are two main ways of arriving at a rating. Each criterion has a number of subcriteria (summarized in the Appendix). Initially, reports are scored on each subcriterion against five levels of achievement. One way of rating is simply to average the subcriterion scores for each criterion. This has the advantage of using all the information on a report across each criterion to give a picture of the report's overall quality. At the same time, however, if a report rated very well on most of the subcriteria but very weak on another, the averaged rating would hide that weakness.

6.51 An alternative method would use the lowest score on any subcriterion as the rating for the overall criterion. This approach would not give credit for any progress a department had achieved on the other subcriteria. It would thus set a more demanding standard than the first method. However, if a report rated very well on most of the subcriteria but very weak on another, the second method would hide the strengths. This would lead to a lower rating for the criterion, if not for the entire report.

Assessing the reports

6.52 Overall, we found that the three reports did fairly well on the first criterion but not as well on many of the others. They were generally rated at the lower levels on the fifth criterion.

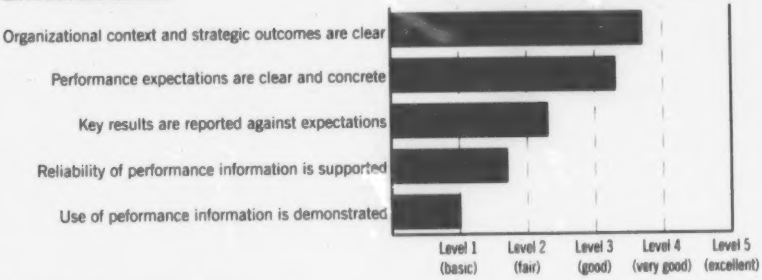
6.53 Turning to the first of our five criteria, Exhibit 6.4 shows that the three departments were good to very good at providing clear and sound information on their operating environments. They still have areas they could improve. For example, while one report provided solid information on the department's operations and challenges, it did not discuss the risks to its achieving the planned strategic outcomes. Nor did any of the reports identify all the department's key partners or their roles. As a result, readers may get the impression that these departments are solely responsible for their outcomes whether they contribute to the state of the environment, health of fish stocks, public safety, or some other broad responsibility of government.

6.54 Moving from our first criterion and its focus on the broad context of planned outcomes to the second criterion, we look at how clearly and concretely the report states the department's performance expectations. We found that they contained mostly general commitments. Two of the reports had few performance expectations that stated a direction (to increase, maintain, or decrease something), an amount (by a number or percent), and a timeframe (by when a change would be made). All three departments seemed to find it difficult to express their performance expectations clearly and concretely.

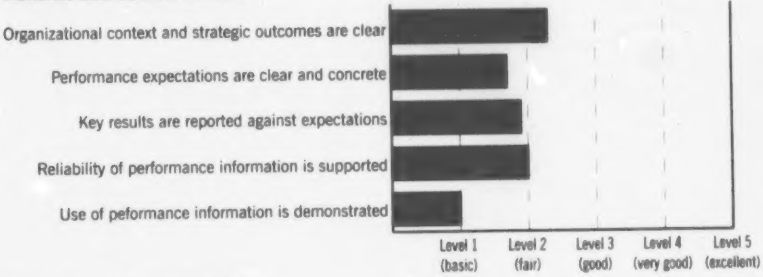
Exhibit 6.4 Rating the three reports

Environment Canada

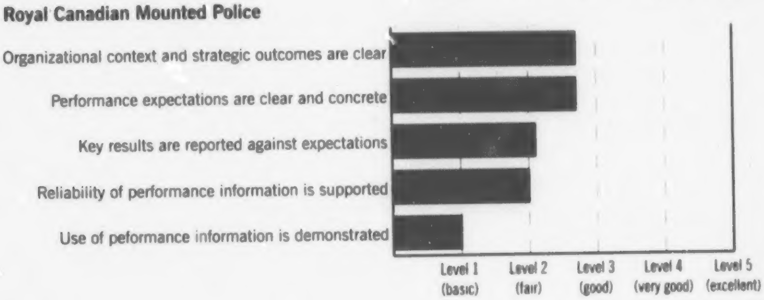
Average of ratings for the subcriteria



Fisheries and Oceans Canada



Royal Canadian Mounted Police



6.55 Our third criterion looks at whether departments have made any progress in reporting on their accomplishments. Two of the departments were stronger at making commitments than at demonstrating that they were delivering on their commitments. The three reports were all fairly strong in aligning results with previously stated performance expectations, and two provided the overall cost of the department's activities by planned strategic outcome. We recognize this as a promising practice by these departments (Exhibit 6.5). All three departments could do better at showing what they have accomplished with taxpayers' money.

6.56 The departments provided little help to readers to judge the accuracy of the information in the reports. As our fourth criterion indicates, a report should include support for the department's confidence in the reliability of the reported information. This would add to the credibility of its performance story.

6.57 Our fifth criterion rates how well a performance report demonstrates the department's use of its performance information. The ratings were low. We had hoped to find departments demonstrating that they used

Exhibit 6.5 Promising practices in the reports we rated

Criterion	Promising practices
Organizational context and strategic outcomes are clear	All three reports provide promising practices for addressing organizational context: • sections titled What Is the Issue? with good information on organizational context (Environment Canada) • a good description of a complex work environment and external factors that influence performance (RCMP) • a result chain for the federal policing business line (RCMP) • crosswalk between business lines and strategic outcomes (Fisheries and Oceans Canada) • identification of lead and supporting business lines for each strategic outcome (Fisheries and Oceans Canada)
Performance expectations are clear and concrete	A table shows targets with a direction, an amount and timeframes for change (Environment Canada).
Key results are reported against expectations	A section on some key reviews shows how they contribute to continuous improvement (RCMP). Instead of an executive summary, a table indicates the results that met expectations and those that did not (RCMP). Estimates of costs for accomplishing each strategic outcome (Environment Canada, Fisheries and Oceans Canada); any limitations on the cost data are explained. Interesting and useful information appears in the margins (Fisheries and Oceans Canada).
Reliability of performance information is supported	A good discussion of limitations of external data used is provided in endnotes (RCMP).
Use of performance information is demonstrated	Sections look at changing future activities in strategies to improve results: • What's Next (Fisheries and Oceans Canada) • Future Challenges (Environment Canada) • Planned Improvements (RCMP)

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Reliability of performance information is supported	A good discussion of limitations of external data used is provided in endnotes (RCMP).
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performance information to make choices in managing their programs, services, or strategies so they could deliver better results to Canadians.

6.58 Overall, our findings suggest that by using the model, we can provide parliamentarians with credible ratings of performance reports that, over a number of years, will allow them to judge the rate of improvement. Using our model to rate these three reports also suggested areas where reporting can improve.

Conclusion

6.59 As an extension of previous work, we developed a model for rating departmental performance reports that incorporated existing criteria of good reporting. We tested the model and concluded that it was sufficiently robust. We used it to rate the performance reports of three departments and demonstrated how the model can be applied.

6.60 Are assessments of performance reports feasible? We are confident that by using this rating model over a number of years, we can report to Parliament on how performance reporting is progressing. We also believe that departments can use the model to assess their own performance reports and identify ways to improve them. Improvements to the model will be made as we continue to use it, and further changes will be suggested by departments as they gain experience from applying it to their own reports.

Government's response. The government is generally supportive of this chapter, which formally introduces the initial version of the Auditor General's model for rating departmental performance reports. We believe that as the model is used and refined over time, it can become a tool to support improved reporting to Parliament and to Canadians.

The model is generally consistent with the principle-based guidance on departmental performance reporting that was released by the Treasury Board Secretariat in the summer of 2001. The Secretariat believes the Model for Rating Departmental Performance Reports could be an important learning and feedback tool that will allow departments to take stock of the information in their performance reports and take the necessary steps to improve their public reporting. We would encourage the Office of the Auditor General to continue to approach the review of departmental performance reports in a way that supports their continuous improvement.

About the Study

Objectives

The objectives of this study were to do the following:

- develop a model to assess departmental performance reports;
- determine the robustness of the model; and
- determine the feasibility of using the model to provide ongoing assessments of performance reports.

Scope

We invited three departments to use their 2000–01 departmental performance reports to demonstrate the applicability of the developmental model. The reports were provided voluntarily and do not represent a sample of the 80 or so performance reports tabled in the House of Commons. We could not therefore draw any conclusions about any trends in performance reporting across government.

Approach

Building on our work of 1997 and 2000, we set out five criteria of good performance reporting that, when taken together, we expect would produce a compelling departmental performance story:

- Organizational context and strategic outcomes are clear.
- Performance expectations are clear and concrete.
- Key results are reported against expectations.
- The reliability of performance information is supported.
- Use of performance information is demonstrated.

Each of these five criteria was shown in our model as a progression over five levels or stages of development. A picture of the ideal performance report was then developed by using the fifth level of each criterion. This ideal performance report represents excellent public reporting.

After developing the rating model, we tested its soundness by having different experts use the tool to rate four departments' performance reports. Our experts rated the reports independently and reached similar scores. We also had officials from the four departments review their respective ratings for reasonableness. We then asked our teams who audit these four departments to review the ratings. We concluded that our model was robust.

We then rated the performance reports volunteered by three departments, one of which had also been included in the test group. These are the sample reports we used to discuss how the model is used, including how it can distinguish between various levels of performance on each of the five criteria for good reporting. We did not audit the departments' systems and procedures for producing the information they included in their reports.

Our ratings, and those from the departmental self-assessments, were then discussed during a clearance session during which agreement was reached on the ratings as well as on why high levels were not achieved. We also had our teams who audit these departments review the ratings. While the final ratings are our own, they also represent a consensus between our Office and the three volunteer departments.

Study team

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Appendix A detailed model for rating performance reports

This table summarizes the subcriteria of each of the five criteria.

Criterion	Level 1 (basic)	Level 2 (fair)	Level 3 (good)	Level 4 (very good)	Level 5 (excellent)
Organizational context and strategic outcomes are clear	Places performance story in context of mission, mandate, and business lines. Identifies planned strategic outcomes.	Contains level 1 criteria. Identifies key partners, accountability structure, and environmental trends. Describes how business lines will contribute to planned strategic outcomes.	Contains level 2 criteria. Discusses challenges and risks to achieving the planned strategic outcomes.	Contains level 3 criteria. Provides more information on key partners, such as who has lead role.	Contains level 4 criteria. Discusses horizontal initiatives with key partners.
Performance expectations are clear and concrete	States performance expectations mostly as activities.	States performance expectations as either outputs or outcomes. Provides direction of change for at least one priority.	States some performance expectations as both outputs and outcomes. Provides direction, amount, and timeframe for at least one priority.	Contains level 3 criteria and many performance expectations expressed as outputs and outcomes with direction, amount, and timeframes. Connects each level of the outcomes.	Contains level 4 criteria with all performance expectations expressed as outputs and outcomes, where appropriate, and with direction, amount, and timeframe for change.
	Aligns performance expectations with the Report on Plans and Priorities.	Contains level 1 criteria. Identifies activities and outputs by business line.	Contains level 2 criteria. Briefly describes why these are the appropriate activities and outputs to achieve expected outcomes.	Contains level 3 criteria. Shows choices are being made to improve performance.	Contains level 4 criteria. Describes the mix of strategies used to produce outputs that contribute to outcomes.
Key results are reported against expectations	Reports key results as activities and outputs achieved.	Reports some key results against expectations and as either outputs or outcomes achieved. Compares key results to the last set of results reported.	Reports many key results against expectations. Information is proportional to its importance. Reports some key results as both outputs and outcomes achieved. Compares key results to trends over previous years.	Reports most key results against expectations, in a balanced way that includes good performance and shortcomings. Reports many key results as outputs and outcomes achieved. Uses comparisons to interpret results.	Contains level 4 criteria. Focusses only on results that are key to meeting the planned strategic outcomes. Reports all key results as outputs and outcomes achieved, where appropriate.

Criteria	Level 1 (basic)	Level 2 (fair)	Level 3 (good)	Level 4 (very good)	Level 5 (excellent)
Key results are reported against expectations		Discusses major challenges experienced in achieving key results. Provides links to evaluations or audits.	Indicates the level of progress in achieving targets. Discusses major challenges to achieve each planned strategic outcome.	Contains level 3 criteria. Provides evidence of contributions to the outcomes for some key results. Presents results in results chains. Integrates findings of evaluations and audits into discussions of results.	Contains level 4 criteria. Provides evidence of contributions to all strategic outcomes. Presents results in results chains. Integrates findings of evaluations and audits into discussions of results.
	Reports resources used by business lines.	Estimates resources used for each business line and for at least one strategic outcome.	Estimates resources used for each business lines or each strategic outcome.	Contains level 3 criteria. Estimates resources used to achieve key outputs and immediate outcomes.	Identifies resources used to achieve all key results.
Reliability of performance information is supported	No achievements expected at this level.	Explains limitations and problems with data. Identifies sources of external data.	Contains level 2 criteria. Has a statement on reliability of data. Provides advice on interpreting information.	Contains level 3 criteria. Discusses external data and plans for improving data. Has a statement on the reliability of key data from internal sources.	Contains level 4 criteria. Includes independently verifiable information to support performance assertions.
Use of performance information is demonstrated	No achievements expected at this level.	Provides examples of use of performance information in decision making. Identifies next steps.	Contains level 2 criteria. Highlights lessons learned.	Contains level 3 criteria. Discusses corrective actions for performance shortcomings. Identifies risks of maintaining progress toward achieving outcomes.	Contains level 4 criteria. Briefly discusses future context and strategies and the capacity to improve performance in the future.

Report of the Auditor General of Canada to the House of Commons—April 2002

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Chapter 5 National Defence—Recruitment and Retention of Military Personnel

Chapter 6 A Model for Rating Departmental Performance Reports

Chapter 7 Strategies to Implement Modern Comptrollership

Chapter 8 Other Audit Observations

2002

Report of the

Auditor General of Canada

to the House of Commons

APRIL

Chapter 7

Strategies to Implement Modern Comptrollership

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

The Report is available on our Web site at www.oag-bvg.gc.ca.

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Chapter

7

Strategies to Implement Modern Comptrollership

The audit work reported in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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Strategies to Implement Modern Comptrollership

Main Points

7.1 The Treasury Board Secretariat established the Comptrollership Modernization Initiative in 1997 to strengthen management capabilities in departments and agencies. The success of the initiative will enable departments and agencies to manage more effectively the resources entrusted to them and to account more fully to Parliament and taxpayers for the use of those resources.

7.2 Establishing sound comptrollership capabilities throughout the government has two key prerequisites: a clear, structured approach; and strong commitment and support from senior management in departments and the Secretariat and from Parliament.

7.3 We are concerned that the commitment and support need to be strengthened in key areas, such as ensuring that departments clearly understand comptrollership, providing direction and guidance, and monitoring progress.

7.4 Only three of the seven departments we audited have comprehensive strategies for implementing modern comptrollership. We found that in general,

- departmental action plans either did not specify timelines or did not establish targets or milestones by which to measure progress,
- many managers did not understand the concept of modern comptrollership, and
- departmental plans did not include estimates of the cost to implement modern comptrollership.

7.5 The Treasury Board Secretariat (TBS) has a clear role: to provide overall guidance and direction for the comptrollership initiative and to provide Parliament with information on progress across government in implementing modern comptrollership. We found that while the TBS is committed to the initiative, it needs to provide much clearer direction and guidance on how to put into practice key aspects of comptrollership. It needs to set clear expectations for departments and dates by which they are to be met.

7.6 The information that departments and the Treasury Board Secretariat provide to Parliament does not show clearly how well or how poorly departments are doing at modernizing their comptrollership practices. Nor does it show the enormity and importance of the task and the risks the government faces if departments and agencies fail to firmly entrench strong comptrollership capabilities in their culture and their day-to-day operations.

Background and other observations

7.7 The initiative to modernize comptrollership is a management reform involving changes in the management mindset and corporate culture of the public service. Modern comptrollership goes beyond traditional comptrollership, which focusses mainly on financial information. Modern comptrollership is about strengthening management practices and integrating financial information with other performance information. Stronger comptrollership across government is essential to managing risks and resources more effectively, making better decisions, and ultimately improving the effectiveness of the public service. Strong comptrollership capabilities will also strengthen departments' ability to account to Parliament and to taxpayers for what they have accomplished with the resources entrusted to them.

7.8 As part of phase 1 of the Comptrollership Modernization Initiative, 15 pilot departments were required to carry out an initial self-assessment of their comptrollership capabilities. The self-assessments showed that departments had a number of deficiencies in such key areas as their ability to exercise effective stewardship over resources and to combine or integrate financial and non-financial performance information for decision making.

The Treasury Board Secretariat has responded. The Secretariat has indicated the actions it has planned or has under way that address the recommendations. Its detailed response follows each recommendation throughout the chapter.

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Introduction

7.9 The Comptrollership Modernization Initiative began in 1997, with the creation of an Independent Review Panel. The Panel's mandate was to examine comptrollership in both the central agencies of the government and its operating departments.

7.10 The work of the Panel resulted in the publication of the *Report of the Independent Panel on the Modernization of Comptrollership in the Government of Canada*. The report noted that modern comptrollership is a management reform focussed on the sound management of resources and effective decision making. Modern comptrollership requires managers and financial specialists to work in a co-ordinated way to prioritize, plan, and meet operational goals and to achieve desired results. Modern comptrollership involves bringing information from many sources into a meaningful whole and communicating that information to those who need it. Modern comptrollership involves not only financial officers in departments but all managers, and it goes beyond financial accountability.

7.11 The Panel set out four key elements of modern comptrollership:

- integrated performance information (financial and non-financial, historical, and prospective);
- a sound approach to risk management;
- appropriate control systems; and
- a shared set of ethical practices and organizational values, beyond legal compliance.

7.12 The Panel's report describes what is expected of executives and employees of the government, as summarized in Exhibit 7.1.

Exhibit 7.1 Expectations of executives and employees of the government

Purposeful—focussed on mission and objectives

Information-driven—using historical facts and solid projections

Proprietary in the use of resources—thinking like an owner or taxpayer

Risk-attuned—not only identifying but also managing risks

Action-oriented—doing analysis and providing advice that influences action

Integrators—bringing together information needed to support decision making

Ethical—acting with integrity and probity

Source: *Report of the Independent Review Panel on Modernization of Comptrollership in the Government of Canada*

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Exhibit 7.2 Key comptrollership events

October 1997—Report of the Independent Review Panel was made public.

January 1998—The Treasury Board accepted the recommendations of the Independent Review Panel and committed itself to making comptrollership a core responsibility of every manager in the public service.

March 1998—The deputy ministers of five departments agreed that their departments would spearhead comptrollership modernization and lead in the change process, and would monitor progress.

April 1998—The Secretary of the Treasury Board created the Comptrollership Modernization Directorate to implement the recommendations of the Independent Review Panel.

March 2000—The President of the Treasury Board tabled *Results for Canadians: A Management Framework for the Government of Canada*.

April 2000—The first five pilot departments completed their baseline assessments and published them on their Web sites.

June 2001—The President of the Treasury Board announced that after a three-year pilot phase, the modern comptrollership initiative was being extended to all departments and agencies.

Comptrollership capabilities are essential to many government initiatives

7.14 The Treasury Board Secretariat established the Comptrollership Modernization Initiative (informally, the modern comptrollership initiative) to strengthen management capabilities in departments and agencies. The success of the initiative will enable departments and agencies to manage more effectively the resources entrusted to them and to better account to Parliament and to taxpayers for the use of those resources.

7.15 Many of the government's initiatives that are designed to strengthen management capabilities—initiatives such as the Improved Reporting to Parliament Project and Program Integrity—depend on the success of the modern comptrollership initiative. For example, improved reporting to Parliament expects departments to clearly identify what they have accomplished with the resources entrusted to them and to report the costs of the services and programs they have provided to Canadians. To do this well, departments need to have strong comptrollership capabilities.

Focus of the audit

7.16 This Office has carried out a number of audits that monitor the government's progress toward achieving modern comptrollership. Our October 2000 Report, Chapter 13, assessed financial management capabilities in five departments. We have also reported on the implementation of the government's financial information strategy.

7.17 The objective of the audit reported in this chapter was to assess the adequacy of the strategies and plans that departments have developed to achieve the objectives of the government's comptrollership initiative. The audit also considered the extent to which the government is addressing key

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7.17 The objective of the audit reported in this chapter was to assess the adequacy of the strategies and plans that departments have developed to achieve the objectives of the government's comptrollership initiative. The audit also considered the extent to which the government is addressing key risks and challenges to the success of the initiative. We also looked for areas where departments and the Treasury Board Secretariat need to improve the actions they are taking to institute modern comptrollership across government.

7.18 We recognize that departments may follow different approaches to achieving modern comptrollership, each reflecting the organization's particular circumstances. Nevertheless, we expected to find that the strategies and plans for improving comptrollership capability would share certain common attributes. For example, we expected that the strategies would provide an organized plan and structure for the timely resolution of the weaknesses departments had identified in their comptrollership capabilities.

7.19 Our audit included the following departments:

- Agriculture and Agri-Food Canada
- Health Canada
- Human Resources Development Canada
- Indian and Northern Affairs Canada
- Royal Canadian Mounted Police
- Transport Canada
- Veterans Affairs Canada

7.20 We also assessed the role of the Treasury Board Secretariat in providing overall direction and guidance to the comptrollership initiative. We looked at the nature and extent of its monitoring and reporting on progress by departments and agencies toward establishing modern comptrollership.

Observations and Recommendations

Prerequisites for modern comptrollership

7.21 Modernizing comptrollership across government will depend on the efforts of senior management in departments and agencies, the Treasury Board Secretariat, and the Privy Council Office. It is also important to engage Parliament in the initiative and secure its support.

7.22 The Independent Review Panel's report on modernizing comptrollership clearly set out what deputy ministers and the Secretary of the Treasury Board should do to weave principles of modern comptrollership into the fabric and culture of departments and agencies.

7.23 The report said that deputy ministers have to be responsible for creating a culture and environment in their organizations that is conducive to instituting sound comptrollership. They also have to develop short-term and long-term plans for creating a comptrollership capability that suits their organizations' needs and circumstances.

7.24 The report noted that the Secretariat's responsibilities include establishing government-wide standards for comptrollership that departments can tailor to fit their particular circumstances. It is responsible for establishing standards and frameworks for reporting financial information and other information. The Panel also cited as key responsibilities of the Treasury Board Secretariat to lead and support the modernizing of comptrollership and to ensure that enough resources are available to accomplish the task.

7.25 The fulfilment of these responsibilities can be considered a prerequisite to modernizing comptrollership across government.

Progress toward modern comptrollership

7.26 The modern comptrollership initiative began in 1998 with the participation initially of five pilot departments. Subsequently, phase 1 of the initiative expanded to include 15 departments. Effective June 2001, phase 2 includes all government departments and agencies.

7.27 As part of the initiative, most participating departments carried out an initial self-assessment of their comptrollership capabilities. Departments assessed and rated themselves in seven key areas:

- strategic leadership;
- motivated people;
- values and ethics;
- the ability to develop and use a range of integrated performance information;
- risk management;
- stewardship of the resources entrusted to them; and
- clearly defined accountabilities.

7.28 These are areas where a department must exhibit a basic level of strength or capacity before it can demonstrate its capabilities for modern comptrollership and strengthen its management. These seven areas are divided into 34 elements, or comptrollership capabilities, each assessed on a scale of one to five.

7.29 The self-assessments enabled senior management in departments to assess their practices in these areas against the best practices of other leading organizations. As departments joined the comptrollership initiative, they completed a self-assessment to give management a basis on which to develop an improvement strategy.

7.30 At the outset, we expected that progress toward modern comptrollership would vary among departments because they joined the initiative at different times.

7.31 We recognize that strengthening comptrollership will entail making far-reaching changes. We know that making the changes and realizing the benefits will take time—perhaps several years. Given the results of the departments' self-assessments and the changes they need to make, we expected that senior management in most departments would have already begun some of the changes or at least have developed plans to do so.

Departmental improvement strategies

Assessments of comptrollership capabilities highlighted a number of significant weaknesses

7.32 Each department compiled the results of the self-assessment to produce a baseline showing where it stood in all seven key areas. The assessment clearly indicated the department's strengths and weaknesses in these areas. Exhibit 7.3 summarizes the results of the self-assessments by 13 of the 15 departments that participated in phase 1 of the initiative (the two others used a different methodology to compile their results and were thus excluded from the summary).

Exhibit 7.3 Results of the departmental self-assessments

[illegible]	[illegible]	[illegible]
Strategic leadership	2.8	1.5 to 4
Motivated people	2.7	1 to 4.5
Shared values and ethics	2.1	1 to 3.5
Integrated performance information	2.4	1 to 4
Sound risk management	2.6	2 to 4
Rigorous stewardship	2.7	1.5 to 4
Improved accountability	2.7	2 to 4

*The ratings show how the departments compare with the Treasury Board Secretariat norm of 3 on a scale of 1 to 5, which is based on the Secretariat's policy requirements. A department that rated itself at or above 3 in a given area is considered to have "good practices" in that area.

7.33 The self-assessments showed departments that they had a number of deficiencies in such key areas as values and ethics, the ability to exercise effective stewardship over resources, and the ability to combine or integrate financial and other performance information for decision making. Integrating that information is critical to understanding the downstream financial implications of decisions and accounting to Parliament and the public for what departments have achieved with the tax dollars they have spent.

7.34 We presented the results of our assessment of financial management capabilities in five departments in our October 2000 Report to Parliament, Chapter 13. In that audit, we found gaps or weaknesses that needed attention. The chapter noted that the departments' own self-assessments of their capabilities yielded results similar to our observations.

7.35 **Departments have taken action.** In our current audit, we noted that departments have taken some positive steps toward achieving modern comptrollership. Exhibit 7.4 gives some examples.

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Exhibit 7.3 Results of the departmental self-assessments

Key comptrollership areas	Average rating*	Range of ratings*
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Exhibit 7.4 Some positive steps by departments toward modern comptrollership

Participation of stakeholders outside the department in completing the capacity self-assessment.

Development of university certificate programs to support the modern comptrollership initiative.

Development of financial management control frameworks.

Development and delivery of management awareness sessions to improve understanding of the modern comptrollership initiative.

Use of comptrollership advisory committees to provide oversight and direction to the initiatives.

Establishment of the desired comptrollership capability profile for the department.

Departmental action plans need improvement

7.36 The government is now in the fifth year of its modern comptrollership initiative. In our view, progress toward establishing sound comptrollership principles in departments continues to be slow. It took 10 of the 15 departments in phase 1 of the initiative more than a year to complete their self-assessments and develop improvement strategies.

7.37 How the seven departments in our audit sample responded to the weaknesses they had identified varied widely (Exhibit 7.5). With few exceptions, their action plans for remedying the weaknesses were deficient in one or more key respects. For example, in only three of the seven departments did the action plans address *all* of the weaknesses identified by the assessments. The four others had developed plans for only certain projects and no broad plan for addressing all the gaps. This is cause for concern, given that their assessments showed comptrollership capabilities below the norm in many areas.

7.38 Our assessment of departmental improvement strategies is summarized on pages 10 to 12. We highlight particular strengths we noted in departments' approaches and identify areas that, if addressed, could reduce the risks in implementing modern comptrollership.

7.39 We note that with the exception of Veterans Affairs Canada, departments had not determined the level of comptrollership capabilities they should have to meet the needs of the organization.

7.40 We noted that in general, departments' plans did not give enough attention to managing the proposed changes and creating a "comptrollership environment." The current government culture can be described as risk-averse, focussed on command and control, and rules-based. In a culture of modern comptrollership, risks are taken based on a knowledge of the department's business, on principles of risk management and on common values and ethics. This requires that departments take the following actions:

- design processes to support their operational needs;

- provide information for decisions to those who need it; and
- adopt more flexible procedures and approaches.

7.41 Bringing about a cultural change of this magnitude requires a clear statement of the implications for individual line or operational managers. It requires training courses on risk management and on values and ethics. It requires changes in processes to make the most effective use of the new financial information systems across the government. Unnecessary activities need to be eliminated as new business processes are introduced, and those who need information to support their decision making need to receive it.

7.42 We expected that departments would have estimated the full costs of implementing their action plans and achieving modern comptrollership. However, in our sample of departments this is not what we found. Making the needed changes will take significant resources. We are concerned that a failure to estimate the costs and to allocate appropriate resources increases the risk that the success of the initiative will be compromised across the government.

7.43 Furthermore, departmental action plans either did not specify timelines or did not refer to targets or milestones by which departments could measure their progress in strengthening their comptrollership capabilities. It is apparent that the changes needed in culture and in processes to support modern comptrollership will take a number of years. It is difficult to maintain a momentum for changes that take a long time. Discrete projects carried out by small working groups and celebrations of success along the way can help. Recognition and rewards that encourage the desired behaviours are also extremely important.

Exhibit 7.5 Status of departmental improvement strategies and plans

Department	Comprehensive action plan developed	Plan for specific projects	Action plan approved by senior management
Agriculture and Agri-Food Canada		√	√
Health Canada		√	√
Human Resources Development Canada	√		√
Indian and Northern Affairs Canada	√		√
Royal Canadian Mounted Police	√		√
Transport Canada		√	√
Veterans Affairs Canada		√	√

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Human Resources Development Canada	√		√
Indian and Northern Affairs Canada	√		√
Royal Canadian Mounted Police	√		√
Transport Canada		√	√
Veterans Affairs Canada		√	√

Our assessment of the departmental action plans

Agriculture and Agri-Food Canada

Agriculture and Agri-Food Canada's mandate is "to provide information, research and technology, and policies and programs to achieve security of the food system, health of the environment and innovation for growth."

Agriculture and Agri-Food Canada was one of the initial five pilot departments to join the Comptrollership Modernization Initiative in 1998. Its capability self-assessment was completed in fall 1999 and endorsed by departmental management in January 2000. The self-assessment identified 11 of the 34 comptrollership capabilities as below the norm. A strategy for correcting identified weaknesses was developed by March 2000.

Subsequently, the Department determined that it needed to adopt a new strategy and approach for delivering its programs and services. One of the first steps was to redesign its business lines. The Department decided that it would implement the principles of modern comptrollership and correct its comptrollership weaknesses as part of the redesign of its business lines and processes to support the achievement of the objectives of its new strategy and approach for program delivery.

Our review of the Department's strategy noted that plans are complete for some components of its redesign of business lines; other components remain to be finalized. The Department anticipates that its strategy and work plans will be completed by April 2002, and its overall redesign will be completed by April 2003.

Health Canada

Health Canada's mission is to help Canadians maintain and improve their health. Its mandate covers three broad areas: health care policy; health promotion and protection, including prevention of disease, illness, and injury; and First Nations and Inuit health.

In our October 2000 report on financial management capabilities in departments, we noted that Health Canada had met the requirements of three of eight key process areas associated with the control level of our Financial Management Capability Model.

In response to our recommendations, Health Canada prepared a financial management improvement plan for resolving the weaknesses we had identified. The plan sets out the actions the Department will take, assigns responsibilities to specific directorates, and sets target dates for completion. We noted that the plan is directed primarily at Health Canada's headquarters but does not say how the Department will fully integrate financial management with the management of its operations. The Department has met the milestones established in the plan that relate to general accounting and resource management. Completion of other milestones, such as those for management information and reporting, was originally planned for March 2001 but was deferred to March 2002.

Health Canada joined the modern comptrollership initiative in March 2000. It completed a self-assessment of its comptrollership capabilities in 2001: senior management endorsed the self-assessment in October 2001. The assessment identified 25 of the 34 comptrollership capabilities as below the norm. The Department anticipates that by 31 March 2002 it will have a strategy and a plan that integrates its response to our October 2000 report and addresses the gaps in capabilities identified in its self-assessment.

Department's response. The Department has made considerable progress in implementing modern comptrollership as well as its plan for financial management improvement, including the integrating of financial management in departmental operations. For example, in the new action plans on grants and contributions and on contracting, accountability goes hand-in-hand with financial responsibility. Furthermore, the milestone related to management information and reporting is now complete. These new action plans are monitored by senior management, including the Deputy Minister and Associate Deputy Minister. As recognized by the Auditor General, the Department will have a plan for modern comptrollership by 31 March 2002 that integrates its response to the October 2000 Report and addresses the key findings of the self-assessment.

Human Resources Development Canada

Human Resources Development Canada (HRDC) has a mandate to enable Canadians to participate fully in the workplace and the community. Its mandate includes four core activities: Employment Insurance, Human Resources Investment, Income Security Programs, and the Labour Program.

HRDC was one of the initial five pilot departments to join the modern comptrollership initiative in 1998. It conducted a capability self-assessment in 1999 that senior management endorsed in January 2000. The self-assessment identified 16 of the 34 comptrollership capabilities as below the norm. In April 2000, senior management approved a plan for correcting the identified weaknesses in the Department's management capabilities.

We reviewed the plan and found that it addresses all the capabilities rated below the norm. One of the plan's significant activities was to develop a two-day Modern Management Awareness Session designed to develop a common understanding of comptrollership among departmental managers. More than 90 percent of the Department's managers have attended the training session. We noted that

HRDC adopted a framework that program managers can use to integrate comptrollership practices in their day-to-day activities. We also noted that the Department developed certificate programs in Modern Comptrollership and Public Management, in conjunction with three Canadian universities.

Although the plan addresses all of the capabilities that need to be strengthened, it does not specify performance indicators and expected outcomes by which HRDC can measure its progress. We also noted that the Department has not estimated the full costs of its modern comptrollership initiatives.

Department's response. HRDC is pleased to note the positive comments of the Auditor General on the initiatives undertaken by this department to support modern comptrollership and fulfil its objective to become a leader in this field. HRDC is pleased that the Auditor General has recognized the steps the Department has taken to ensure that its managers receive training in modern comptrollership practices and are able to apply them in their day-to-day activities. The details of the Department's modern comptrollership plan can be located on the HRDC public Web site.

HRDC also agrees with the recommendations made by the Auditor General to strengthen the Department's plan and has already begun to take action on them. Specifically, the Department has initiated a process to identify and implement the appropriate performance indicators and expected outcomes that will allow us to measure our progress in this area. In addition, we will continue to work closely with the Treasury Board Secretariat to ensure that our actions reflect the core elements of modern comptrollership, including values and ethics and risk management, and that all of our actions are consistent with Treasury Board's Accountability and Reporting Framework for Modern Comptrollership.

Indian and Northern Affairs Canada

Indian and Northern Affairs Canada (INAC) has a mandate that gives it primary but not exclusive responsibility for meeting the federal government's constitutional, treaty, political, and legal responsibilities to First Nations, Inuit, and Northerners. To fulfil this mandate, the Department must collaborate with First Nations, Inuit, and Northerners; other federal departments and agencies; and the provinces and territories.

INAC was one of the initial five pilot departments when the modern comptrollership initiative began in 1998. It conducted a capability self-assessment in 1999 that senior management endorsed in January 2000. The self-assessment identified 6 of the 34 comptrollership capabilities as below the norm. Senior management approved the departmental improvement plan in March 2000.

Our review of the improvement plan found that it covered all six of the capabilities rated below the norm. A significant activity in the Department's strategy for improvement was to develop advisory groups for each improvement initiative, who would provide ongoing strategic direction and advice. The Department also added the achievement of comptrollership objectives to its performance agreements with executives.

We noted that the awareness of comptrollership varied greatly among departmental managers. We also noted a wide range in the nature and extent of regional involvement in the modern comptrollership initiative.

Although the plan includes all of the capabilities that need to improve, it does not identify performance indicators and expected outcomes by which to measure progress. Nor has the Department estimated the full costs of the activities set out in the plan.

Royal Canadian Mounted Police

The Royal Canadian Mounted Police (RCMP) is Canada's national police force and an agency of Solicitor General Canada. Its mandate is to enforce laws; prevent crime; and maintain peace, order, and security. Its primary objective is to contribute to the safety of communities across Canada.

The RCMP joined the modern comptrollership initiative in January 2000. In October 2000, senior management endorsed a self-assessment of management processes, systems, and practices; the self-assessment identified 32 of the 34 comptrollership capabilities as below the norm. An action plan was developed, and the Senior Executive Committee approved it in November 2000.

We found that the action plan addresses all the capabilities rated below the norm. In particular, we noted senior management's strong support of the modern comptrollership initiative. We also noted that the RCMP's strategy includes presenting a monthly Comptrollership Improvement Status Report to its executives.

The plan covers all the capabilities that need to be strengthened but does not specify performance indicators and expected outcomes for the RCMP to use in measuring its progress. We saw no estimate of the full costs of implementing the strategy and action plan.

Transport Canada

Transport Canada is responsible for most of the transportation policies, programs, and goals set by the government to ensure the safety, efficiency, and accessibility of the national transportation system.

In our October 2000 report on financial management capabilities in departments, we noted that Transport Canada substantially met the requirements of seven of the eight key process areas associated with the control level of our Financial Management Capability Model. We said it needed to strengthen its internal audit capabilities and the monitoring of its control framework. We also noted that the department needed to develop specific capabilities as an integral part of comptrollership.

Our review of the Department's improvement strategies indicated that its plan responded to our October 2000 observations. Transport Canada selected three additional areas of effort: values and ethics, performance measurement, and risk management. The Department has put in place a formal action plan for improving performance measurement and has issued a draft policy on risk management. It has said it will develop a detailed action plan once the policy is finalized.

While the Department has carried out a number of activities in the area of values and ethics, it has not developed a formal action plan. It has said it intends to act in the other areas but has no plan that indicates how or when it will address the gaps.

We also noted that Transport Canada has not estimated the full costs of achieving its plans for modern comptrollership.

Veterans Affairs Canada

Veterans Affairs Canada's mandate is to provide veterans and qualified civilians, and their families, with the benefits and services to which they are entitled; to promote their well-being and self-sufficiency; and to keep the memory of their achievements and sacrifices alive for all Canadians.

Veterans Affairs joined the modern comptrollership initiative in August 1999; in September 2000 it completed a self-assessment of its management processes, systems and practices. The self-assessment identified 19 of the 34 comptrollership capabilities as below the norm. Senior management approved a departmental improvement strategy in December 2000.

As part of developing its improvement strategy, the Department conducted a gap analysis to determine the capabilities it needed and compared them with the capabilities identified in the self-assessment. Its improvement strategy focusses on three areas: strengthening its values and ethics framework; implementing an integrated risk management framework; and providing an awareness session for departmental managers to improve their understanding of modern comptrollership. For each of these three projects the Department established work plans, intended outcomes, and indicators of success. The plans included target dates for completion and attached resources to each project.

Although the Department has said that it intends to act in the other areas, we are concerned that it has not adopted an overall strategy and plan that identifies how and when it will resolve the identified gaps in its capabilities. The awareness session for departmental managers is an important first step in changing the culture of the Department, but it is important that managers and staff understand what the next steps will be. We also noted that the Department has not estimated the full costs of its plans for achieving modern comptrollership.

Department's response. The Department is developing a strategy to address all of the identified gaps in modern comptrollership capabilities. We have developed the action plans to improve on the three priority areas within which the greatest gaps existed. This strategy was relayed to Treasury Board Secretariat. We are in the process of implementing those action plans so that we will have a foundation on which to build the remaining elements.

We are also developing an action plan and results measurement framework to address the remaining issues. This document will include work plans, intended results, indicators of success, and costs. The framework will provide for ongoing monitoring of all our initiatives, both during the active phase (over the next few years) and as an ongoing mechanism to track continued maintenance of the desired levels of modern comptrollership competencies.

7.44 **Recommendation.** Departments should ensure that their action plans to strengthen comptrollership capabilities address all the gaps identified in the self-assessments of present capabilities. In their action plans they should estimate the cost of making the necessary changes, identify the resources they will need, and include targets or milestones by which they can measure progress.

Treasury Board Secretariat's response. The Secretariat agrees that time-bounded and (to the extent possible) costed action plans are essential to move the modern comptrollership initiative agenda forward. Indeed, it is a condition of participation in the initiative that participant departments and agencies produce such plans. The Secretariat is currently developing improved guidance for the development of action plans, based on an analysis

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Treasury Board Secretariat's response. The Secretariat agrees that time-bounded and (to the extent possible) costed action plans are essential to move the modern comptrollership initiative agenda forward. Indeed, it is a condition of participation in the initiative that participant departments and agencies produce such plans. The Secretariat is currently developing improved guidance for the development of action plans, based on an analysis of action plans developed during the pilot phase and on good management practices. We are also encouraging departments and agencies to make their modern comptrollership action plans the foundation of more comprehensive management improvement agendas. Our perspective is that the modern comptrollership initiative is about changing management culture. As a result, a measure of flexibility in approach and timing is to be expected in departmental action plans. Also, the work of changing management practice is less amenable to costing than other more straightforward changes to management process.

7.45 **Recommendation.** Senior management in departments should monitor progress against their action plans and report on it in departmental performance reports.

Treasury Board Secretariat's response. The Secretariat agrees with the importance of monitoring and reporting on progress against action plans. The principal instrument for reporting to Parliament is the departmental performance report, and the current guidelines do require that departments report on the modern comptrollership initiative in their performance reports.

Many departmental managers do not fully understand the modern comptrollership initiative

7.46 Creating a modern comptrollership culture in departments requires well-planned, targeted, and ongoing communications. Although most departments have invested time and effort in communications that explain the modern comptrollership initiative to managers, many managers still do not understand modern comptrollership concepts well enough to change their practices.

7.47 We found that senior management in departments supported and understood the modern comptrollership initiative and the key areas (such as risk management, stewardship, and integrated performance information) that are central to its success. However, we noted in all seven departments we audited that this high-level understanding had not filtered down to others in the organization.

7.48 In the interviews we conducted during the audit, we found that the finance and corporate services groups had a good understanding of modern comptrollership. We also noted that many operational managers in the departments we examined did not understand clearly how to translate modern comptrollership concepts into better management practices and accountability. They had generally little understanding of where modern comptrollership fits in the broader agenda of the government's management framework *Results for Canadians*, or with other government-wide initiatives of the Treasury Board Secretariat. Many viewed the comptrollership initiative as pertinent mainly to the finance function. In general, we found that departmental staff in the regions understood the initiative much less than staff at headquarters. The Secretariat's evaluation of phase 1 of the initiative raised similar concerns.

7.49 We noted that the communication products or strategies of departments did not explain effectively how modern comptrollership would directly affect line or operational managers in headquarters or the regions on a day-to-day basis. In other words, communication efforts often did not translate the comptrollership concept well enough into operational terms. Communications need to explain how operational managers can identify performance measures, integrate financial and non-financial information for reporting and decision-making purposes, and identify and mitigate financial and operational risks. Departments need to identify for managers the specialists who can assist them when necessary.

7.50 Ensuring that managers throughout the organization understand modern comptrollership and their role in "making it happen" is fundamental to creating buy-in and a culture that supports and embraces comptrollership principles. Buy-in can improve if managers understand that modern comptrollership is not simply another administrative burden but rather a different way of going about government business.

7.51 We did note that Human Resources Development Canada (HRDC) had developed a series of orientation programs designed to convey to operational managers and staff, both at headquarters and in the regions, a common understanding of the modern comptrollership initiative. The two-day awareness session was targeted at all managers and senior functional specialists in the Department to raise their awareness of comptrollership and provide an opportunity to discuss and share good management practices with their colleagues. By January 2002, more than 90 percent of the Department's managers had received this training. Such awareness training is an important first step in developing a common understanding of the changes the Department is trying to make.

7.52 In some organizations, such as the RCMP, senior management has made speeches and presentations on comptrollership to managers at lower levels both at headquarters and in the regions. Senior management has emphasized the importance of adopting modern comptrollership principles to improve the management of the organization. These activities are also attempts to engage middle managers in the effort and to change the way they operate from day to day. It is essential that senior management's commitment to the changes be visible.

7.53 However, we found that even where departments had made a concerted effort to communicate with staff and explain modern comptrollership, sometimes the messages simply had not been received, or in some cases not understood. We are concerned that the lack of effective communication in departments signals a risk that modern comptrollership principles may not become well enough understood and embedded in the culture of departments or in the government as a whole.

7.54 **Recommendation.** Departments and agencies should ensure that communication plans are in place and that they are effective in improving managers' understanding of modern comptrollership principles and practices.

Communication plans should translate the comptrollership concepts into operational terms and should anticipate the need to reinforce the message while modern comptrollership is implemented.

Treasury Board Secretariat's response. The Secretariat agrees that departments and agencies should develop and implement communications plans. As well, the Secretariat recognizes that its support is essential and that it has a leadership role in the development and communication of clear messages that are meaningful to managers. To that end, it is developing a communications program in support of government-wide implementation, targeted specifically at the management community. The Secretariat is rebuilding its Web site to serve as a better source of information on modern comptrollership for all managers. It is also developing, with departmental participation, a comprehensive learning program.

The need for strong leadership

The Secretariat has taken steps to support strengthened comptrollership

7.55 The Treasury Board Secretariat's commitment to supporting the modern comptrollership initiative is no less important than the commitment required of senior management in departments. The Secretariat clearly is committed to the modern comptrollership agenda. For example, it has developed policies in such key areas as risk management and internal audit. As we have noted, it also helped the 15 pilot departments complete self-assessments to obtain baseline information on their capabilities for practising modern comptrollership principles.

7.56 Another key initiative of the Secretariat is the development of an Information Kit of Resources to assist departments and agencies in implementing modern comptrollership. The toolkit includes the following:

- Modern Comptrollership: A Guide to Getting Started
- Suggested Steps for Modernizing Comptrollership
- Overall Desired Outcomes for Departments and Agencies
- Communicating Modern Comptrollership.

Departments need clearer guidance and direction from the Secretariat

7.57 As part of our audit, we reviewed the direction and guidance that the Treasury Board Secretariat has given to departments. We noted that when it expanded the initiative in June 2001 to include all government departments, the Secretariat established the outcomes it wants for the modern comptrollership initiative and some dates by which they are to be achieved (Exhibit 7.6).

7.58 We are concerned that the desired outcomes are not stated clearly enough for the Secretariat to hold departments accountable for achieving them. For example, a phrase such as "a more advanced and fully integrated level of comptrollership" (Exhibit 7.6) does not convey a clear requirement or expectation that departments are to meet.

Exhibit 7.6 Desired outcomes for the modernization of comptrollership

By June 2002, or as determined in consultation with the Treasury Board Secretariat, departments will have completed a baseline assessment of their comptrollership capabilities and have an action plan approved by deputy heads.

Starting in fall 2002, departments will provide an annual report to the Secretariat on the state of comptrollership, through their performance reports.

By December 2002, departments will have implemented substantial components of their action plans and reached a minimum acceptable level of comptrollership as determined in consultation with the Secretariat.

By fall 2004, departments will achieve a more advanced and fully integrated level of comptrollership as determined in consultation with the Secretariat.

Departments will be able to demonstrate that an effective accountability framework is in place and being used.

Source: Treasury Board Secretariat, Information Kit of Resources

7.59 We noted that the desired outcomes for the seven key areas of comptrollership are stated in only very general terms. At the time of our audit, the Secretariat had not developed criteria to serve as a basis for consultation and discussion with departments on the nature and extent of the comptrollership capabilities they will establish.

7.60 Our audit also noted that the desired outcomes have target dates for only one aspect of the comptrollership initiative, control systems.

7.61 Officials we interviewed in most of the departments in our audit said they were looking for specific guidance and tools for putting into practice key aspects of comptrollership, such as performance measurement and reporting and integrated risk management. Departmental managers are also looking to the Secretariat for guidance and assistance in identifying better practices.

7.62 **Recommendation.** The Treasury Board Secretariat should establish and communicate the criteria it intends to use to monitor and assess departmental progress toward achieving the desired outcomes and target dates for modern comptrollership. It should also communicate criteria for reporting progress in departmental performance reports.

Treasury Board Secretariat's response. As indicated in the strategic plan for phase 2, evaluation of government-wide implementation of the modern comptrollership initiative is a priority. The Secretariat is developing an accountability and reporting framework that will provide performance criteria for use by departments and agencies in monitoring and reporting on results achieved. It will also set out the criteria that the Secretariat will use to assess the government-wide implementation of the modern comptrollership initiative.

The Secretariat needs to strengthen its monitoring of the comptrollership initiative

7.63 In government-wide initiatives such as the modernization of comptrollership, ongoing monitoring across the government is critical. The Secretariat's Policy on Active Monitoring highlights the importance of monitoring. Exhibit 7.7 shows what the policy expects of the Secretariat.

7.64 Fulfilling its monitoring responsibilities would provide the Secretariat with information for the following:

- strategic intervention to ensure that the initiative progresses or to respond as necessary for other reasons;
- reporting to Parliament on the state of the initiative government-wide; and
- sharing of good practices among departments.

7.65 We reviewed the nature and extent of monitoring by the Secretariat and its use of the information it obtains by monitoring. We noted that the completion of the comptrollership self-assessments gave the Secretariat a broad picture of the state of comptrollership practices across government. However, we found that it monitored phase 1 of the initiative only informally. For example, we saw little evidence that it had reviewed the adequacy and completeness of departmental action plans for closing the identified gaps in their capabilities. We found little indication of a challenge review by the Secretariat of the priorities that departments had established in their plans or the dates by which they would establish comptrollership capabilities.

7.66 We note that in its "management board" role, the Secretariat is responsible for keeping departments on track and on schedule in implementing the modern comptrollership initiative. As a management board, it needs to play a strong role in monitoring, co-ordinating, and facilitating departments' efforts. As the initiative expands to include all government departments, it is important that the Secretariat keep the support of other key central agencies such as the Privy Council Office.

7.67 Stronger monitoring will be essential in phase 2 of the initiative, which will include all federal departments and agencies.

Exhibit 7.7 Treasury Board Secretariat's responsibilities for active monitoring

Working in partnership with departments, actively monitor management practices and controls to develop a current, accurate, and integrated understanding of their state across government and of significant management concerns in individual departments.

Support departments in developing tailored solutions to their specific management issues and concerns.

Lead and support, as appropriate, collaborative or government-wide approaches to improvement.

Assess on an ongoing basis the effectiveness of Treasury Board policies and recommend to the Treasury Board, as appropriate, needed changes in existing policies or new policies.

Source: Treasury Board Secretariat, Policy on Active Monitoring

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By June 2002, or as determined in consultation with the Treasury Board Secretariat, departments will have completed a baseline assessment of their comptrollership capabilities and have an action plan approved by deputy heads.

Starting in fall 2002, departments will provide an annual report to the Secretariat on the state of comptrollership, through their performance reports.

By December 2002, departments will have implemented substantial components of their action plans and reached a minimum acceptable level of comptrollership as determined in consultation with the Secretariat.

By fall 2004, departments will achieve a more advanced and fully integrated level of comptrollership as determined in consultation with the Secretariat.

Departments will be able to demonstrate that an effective accountability framework is in place and being used.

Source: Treasury Board Secretariat, Information Kit of Resources

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7.60 Our audit also noted that the desired outcomes have target dates for only one aspect of the comptrollership initiative, control systems.

7.61 Officials we interviewed in most of the departments in our audit said they were looking for specific guidance and tools for putting into practice key aspects of comptrollership, such as performance measurement and reporting and integrated risk management. Departmental managers are also looking to the Secretariat for guidance and assistance in identifying better practices.

7.62 **Recommendation.** The Treasury Board Secretariat should establish and communicate the criteria it intends to use to monitor and assess departmental progress toward achieving the desired outcomes and target dates for modern comptrollership. It should also communicate criteria for reporting progress in departmental performance reports.

Treasury Board Secretariat's response. As indicated in the strategic plan for phase 2, evaluation of government-wide implementation of the modern comptrollership initiative is a priority. The Secretariat is developing an accountability and reporting framework that will provide performance criteria for use by departments and agencies in monitoring and reporting on results achieved. It will also set out the criteria that the Secretariat will use to assess the government-wide implementation of the modern comptrollership initiative.

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Support departments in developing tailored solutions to their specific management issues and concerns.

Lead and support, as appropriate, collaborative or government-wide approaches to improvement.

Assess on an ongoing basis the effectiveness of Treasury Board policies and recommend to the Treasury Board, as appropriate, needed changes in existing policies or new policies.

Source: Treasury Board Secretariat, Policy on Active Monitoring

7.68 **Recommendation.** The Treasury Board Secretariat should monitor the progress of departments and agencies toward achieving modern comptrollership and should give them periodic feedback, both individually and collectively. Its monitoring should include, for example, review of departments' improvement strategies and their progress in implementing the needed improvements and identification of areas where departmental plans can be strengthened.

Treasury Board Secretariat's response. The Secretariat agrees that it is responsible for monitoring and reporting on government-wide implementation of modern comptrollership. For their part, departments and agencies are responsible for monitoring progress against their own plans and targets. The Secretariat is planning to engage with departments and agencies on the development of their action plans as they complete their baseline assessments. A database of the commitments made by departments and agencies is also being developed and will be used to follow up with them. The accountability and reporting framework to be developed with departmental input in 2002–03 will describe the reporting requirements for modern comptrollership. The precise extent of the Secretariat monitoring and engagement activities, however, will depend on available resources.

The Treasury Board Secretariat's plans for phase 2 of the initiative

7.69 On 1 June 2001, the President of the Treasury Board announced that after a three-year pilot phase, the modern comptrollership initiative was being extended to all Government of Canada departments and agencies. She noted that this initiative was essential to implementing the government's management framework *Results for Canadians* and continuing to improve management practices.

7.70 To support the initiative's expansion, Treasury Board ministers approved funding of $30 million for the new departments and agencies over the next three years. The approval indicates that no central funding will be available after three years, when the Comptrollership Modernization Directorate of the Treasury Board Secretariat is expected to close.

7.71 The Secretariat set out its strategy for phase 2 of the modern comptrollership initiative in May 2001. The following are key aspects of the strategy:

- create conditions for long-term success of the initiative by building a better understanding of comptrollership, putting in place essential tools and guidance, and strengthening accountabilities for management improvement;
- develop a comprehensive learning strategy for comptrollership modernization; and
- provide ministers with a more integrated picture of the state of comptrollership.

7.72 The Secretariat has identified some key aspects of its approach to implementing the next phase of the modern comptrollership initiative:

- government-wide implementation over the next three years;
- mandatory participation of all departments and agencies but with a flexible approach;
- emphasis on modern comptrollership as a foundation for modern management;
- clearer expectations of the results to be achieved and better performance reporting, including indicators of good management; and
- long-term commitment to modern comptrollership from all departments and agencies.

7.73 At the time of our audit, the Secretariat had not yet developed this general strategy into specific work plans against which to track future progress. An important part of the strategy requires that the Secretariat develop an approach to measuring progress across the government toward achieving modern comptrollership. It may require that it develop an approach to continuing its support if the initiative is not completed by the end of phase 2. The Secretariat may also need to take an aggressive approach to managing the initiative if the desired outcomes are to be achieved by the time the Comptrollership Modernization Directorate is scheduled to close.

7.74 **Recommendation.** The Treasury Board Secretariat should develop detailed work plans and a project management structure for phase 2 of the modern comptrollership initiative.

Treasury Board Secretariat's response. Since the audit, the Secretariat has put in place detailed work plans and a project management structure for implementing modern comptrollership.

Information for Parliament

7.75 Sound performance information is essential to managing programs effectively. It enables an organization both to measure its progress toward an objective and to assess results and the longer-term outcomes of its programs and activities. Management can also use performance information to identify problems and correct them. Further, performance information is the key to accountability—demonstrating to Parliament and the public what has been produced or accomplished with the tax dollars spent.

Performance information is long on process and short on results

7.76 Information for Parliament on the performance of the modern comptrollership initiative has so far focussed mainly on process. It has concentrated on activities—departments' efforts to develop adequate comptrollership capabilities. Information has often been limited to facts such as the number of departments involved in pilot projects and the number of meetings between the Standards Advisory Board and the Comptrollership Council.

7.77 Although the information provided may be relevant, by itself it does not meet the spirit of the government's *Results for Canadians* initiative, which stresses the importance of results-oriented information. *Results for Canadians* calls for information that indicates clearly how well (or how poorly) a program has performed in key areas and how effectively taxpayers' dollars have been spent. Moreover, the information on the modern comptrollership initiative that Parliament has received from the TBS has not met the Secretariat's own standards for reporting on performance. Among other things, those standards call for performance information that clearly links resources spent to the results or outcomes achieved.

7.78 Other, less process-oriented information would better serve the needs of Parliament. For example, a summary of the results of departments' self-assessments would have provided a "snapshot" of departments' current strengths and weaknesses in areas that are critical to modernizing comptrollership. These include control systems, risk management regimes, and the leadership and commitment of senior management. The snapshot would have provided a baseline for the future measurement of departments' progress in improving their comptrollership capabilities. However, our audit showed that the Treasury Board Secretariat has not routinely reported this type of results-oriented information to Parliament, even though it has been available.

7.79 The government has spent and continues to spend substantial resources on the modern comptrollership initiative. Given the level of spending, Parliament deserves performance information that indicates clearly how management practices have improved as a result.

7.80 **Recommendation.** The Treasury Board Secretariat should provide an annual report to Parliament on government-wide progress toward achieving modern comptrollership. The report should set out the key benefits of successfully implementing modern comptrollership, the results achieved, and the actions planned to mitigate the risks that could compromise the success of the modern comptrollership initiative across government.

Treasury Board Secretariat's response. The principal instrument for reporting to Parliament is the departmental performance report, and current guidelines for reporting on the modern comptrollership initiative do require departments to report on their progress through their performance reports. The Secretariat will report on the progress of the initiative government-wide through its own departmental performance report.

Information on risks and benefits is needed to engage Parliament

7.81 The ongoing support of parliamentarians will be an important part of establishing modern comptrollership in the federal government. In other jurisdictions, notably Australia and Alberta, political support has proved very important in similar efforts to introduce modern comptrollership practices.

7.82 In our view, one way to generate this support is to provide more and better information on progress and on the benefits that modern comptrollership can yield. These benefits include more effective management and decision making in departments and the provision to Parliament of more reliable, objective information on the cost and quality of services to Canadians. Parliament can play an important role in supporting the comptrollership initiative by critically reviewing and discussing the progress of this initiative as reported in departmental performance reports.

7.83 We found that the Treasury Board Secretariat has not provided Parliament with other kinds of information on the initiative that could be useful. For example, it has not kept Parliament abreast of current or emerging risks that could compromise efforts to modernize comptrollership across the government and the actions it has taken to mitigate the risks. Risks could include a loss of commitment to the initiative over time and an inability to recruit properly trained people to staff the financial management and control function. Having adequate resources and enough staff with the appropriate skills for modern comptrollership will be central to making the initiative work in all government departments and agencies.

Conclusion

7.84 The Comptrollership Modernization Initiative of the federal government is an important initiative designed to strengthen management capabilities and improve the stewardship of public resources. The goals are to integrate financial information with other performance information for use by managers and to establish a sound approach to risk management, ensure that appropriate control systems are used, and establish a shared set of values and ethics that support departments in achieving their objectives.

7.85 Modernizing and strengthening comptrollership capabilities is an integral part of many government initiatives now under way and is essential to their success.

7.86 Our audit found that only three of seven departments we examined had established comprehensive strategies for implementing modern comptrollership. Departments need to establish clear target dates and indicators of success. They also need to do much more to improve managers' understanding of modern comptrollership. It is important that departments and the Treasury Board Secretariat estimate what it will cost to implement modern comptrollership and ensure that they allocate adequate resources to the task.

7.87 As the government enters phase 2 of the modern comptrollership initiative, the Secretariat must provide strategic direction and clear guidance to departments. An essential component of phase 2 must be active monitoring by the Secretariat, together with clear reporting to Parliament on progress toward implementing modern comptrollership.

7.88 A number of significant challenges remain. Departments and the Treasury Board Secretariat will have to sustain their efforts for as long as it takes to establish and institutionalize the capabilities needed for modern comptrollership. The strong support and commitment of Parliament, the Privy Council Office, the Treasury Board Secretariat, and senior management in departments is critical to establish and maintain the essential management capabilities and ensure the success of this initiative.

About the Audit

Objectives

The objective of this audit was to assess the adequacy of the strategies and plans that departments had developed to achieve the objectives of the government's comptrollership initiative. We also assessed the extent to which the Treasury Board Secretariat and departments were addressing the key risks and challenges that could prevent departments from achieving their comptrollership objectives. Further, we wanted to identify any areas where departments or the Secretariat needed to improve the actions they were taking.

Our audit included the following departments:

- Agriculture and Agri-Food Canada
- Health Canada
- Human Resources Development Canada
- Indian and Northern Affairs Canada
- Royal Canadian Mounted Police
- Transport Canada
- Veterans Affairs Canada

We chose these departments because they represent a cross-section of both large and medium-sized organizations. They also included a mixture of departments that used our Financial Management Capability Assessment as a baseline assessment and departments that used a management self-assessment process as a baseline assessment.

We also reviewed the role of the Treasury Board Secretariat in providing direction and guidance to the comptrollership initiative.

Scope and approach

As part of our October 2000 assessment of five departments' financial management capabilities, we encouraged departments to develop strategies for both integrating financial management with other management practices and determining how financial management might better support the organization.

We developed the following criteria for the present audit:

- The Treasury Board Secretariat should monitor progress on a government-wide basis (that is, in critical business lines) at departments and agencies. It should use strategic intervention as appropriate.
- The Treasury Board Secretariat should co-ordinate and facilitate departmental efforts on common issues to expedite progress and maximize cost effectiveness. Where appropriate, the Secretariat should provide guidance to assist departments and agencies in their work.
- Parliament should be kept informed on significant matters arising from the modernization of comptrollership initiative and on the initiative's progress.
- The Treasury Board Secretariat and senior management at the department and agency levels should have a vision, a strategy, and an organized plan and structure to effect the needed changes in a timely manner. The vision and strategy should be consistent with overall objectives and goals and should be communicated to all levels in each organisation.
- Departments and agencies should assign appropriate resources to their comptrollership initiative to ensure that they meet the goals established in the departmental improvement plan.
- The Treasury Board Secretariat and departments and agencies should identify and manage the risks to the success of the Comptrollership Modernization Initiative.
- Senior management in departments and agencies should develop and nurture a climate or culture conducive to the achievement of its goals and objectives in modernizing comptrollership.

- Departments and agencies should provide clear, accurate, comprehensive, and timely information to senior management and the Treasury Board Secretariat on the progress of their efforts to modernize comptrollership.

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Report of the Auditor General of Canada to the House of Commons—April 2002

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Chapter 8

Other Audit Observations

The April 2002 Report of the Auditor General of Canada comprises eight chapters, a Foreword and Main Points. The main table of contents is found at the end of this publication.

The Report is available on our Web site at www.oag-bvg.gc.ca.

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Chapter

8

Other Audit Observations

The work that led to the audit observations in this chapter was conducted in accordance with the legislative mandate, policies, and practices of the Office of the Auditor General of Canada. These policies and practices embrace the standards recommended by the Canadian Institute of Chartered Accountants.

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Departments are paying hundreds of millions of dollars in grants before receiving Parliament's authorization

Other Audit Observations

Main Points

8.1 This chapter fulfils a special role in the Report. Other chapters normally report on value-for-money audits or on audits and studies that relate to operations of the government as a whole. Other Audit Observations discusses specific matters that have come to our attention during our financial and compliance audits of the Public Accounts of Canada, Crown corporations, and other entities, or during our value-for-money audits or audit work to follow up on third-party complaints.

8.2 This chapter covers the following:

- Health Canada and Public Works and Government Services Canada—Government contracting rules and regulations were not followed.
- National Defence—Military satellite communication system is unused and placed in storage.
- Canada Customs and Revenue Agency—Process for renewal of duty-free shop licences needs to be improved.
- Treasury Board Secretariat—Departments are paying hundreds of millions of dollars in grants before receiving Parliament's authorization.

8.3 Although audit observations report matters of significance, they should not be used as a basis for drawing conclusions about matters not examined.

Health Canada and Public Works and Government Services Canada

Government contracting rules and regulations were not followed

In brief

Health Canada and Public Works and Government Services Canada (PWGSC) did not follow government contracting rules and regulations when they spent over $25 million on the Canadian Health Network. Although a Web site was developed, there is no assurance that best value was received from this expenditure. Assets purchased were underused and overclaims were made.

Health Canada made commitments and entered into contracts to create a health information Web site without appropriately defining what the Department wanted or needed from the contractors or evaluating options for how best to achieve it.

In awarding these contracts, PWGSC, the contracting authority, failed to follow a number of government contracting rules and regulations. Furthermore, Health Canada transferred its responsibility for managing the initiative to the contractor without ensuring appropriate oversight. Program administration and contracting issues that arose could have been avoided if PWGSC had adhered to sound contracting practices.

Work was begun without a written contract; audits of contracts identified significant overclaims; and Health Canada failed to establish controls over assets purchased on the government's behalf.

Background

8.4 The Canadian Health Network grew out of four small clearing houses for health promotion information, which Health Canada funded prior to 1998. The clearing houses used "old" technology, disseminating information through telephone, fax, and mail.

8.5 After the 1994 Program Review, Health Canada attempted to integrate the four clearing houses into one. Originally service delivery was to be in the form of telephone responses and printed documents and developed into a Web site. The Canadian Health Network brings together expertise and knowledge found in Health Canada, other federal agencies, provinces and territories, non-government organizations, and universities, while maintaining individualized service and telephone access. The intent is to provide Canadians with single-window access to current, accurate, and reliable health information.

8.6 In the February 1997 Budget, the government announced new funding for developing the information highway. The Canadian Health Network was one of three Health Canada initiatives under the Canada Health Infostructure Partnership Program that were designed to give Canadians better access to health information.

8.7 The infostructure initiative involved a major shift from the clearing house concept to a Web-based approach to distributing health promotion information. This approach entailed vastly different requirements for hardware, software, and the capacity to manage more complex activities. For example, the number of affiliate organizations that were to provide health promotion information grew from 4 to 22, with up to 400 links to other organizations. After considering the option of using grants and contributions, Health Canada officials decided that contracting would be the most appropriate way to carry out the work required to put this initiative in place.

8.8 Health Canada hired the same contractors for the Web-based initiative as it had engaged to manage the original, smaller clearing house initiative (the Ontario Prevention Clearinghouse, until April 1998, and OPC–COIP Inc., carrying on business as Innovaction). It also let contracts for surveys and informatics to other contractors.

8.9 PWGSC, as the contracting authority, awarded the first contract we reviewed in January 1998. It continued to contract with suppliers through a series of 44 contracts and 25 amendments until November 2000 (Exhibit 8.1).

Exhibit 8.1 Contracting activity for the Canadian Health Network

	Original contract		Amendment		Total
Type of contract	Number	$ millions	Number	$ millions	$ millions
Survey	17	1.112	4	(0.064)	1.048
Informatics	15	2.600	11	3.980	6.580
Program management	12	10.477	10	7.344	17.821
	44	14.189	25	11.260	25.449*

* Does not include direct Health Canada or PWGSC costs.

Issues

Health Canada's planning and analysis of its contracting needs did not keep pace with initiative requirements

8.10 The major change in the infostructure initiative from a clearing house using a call centre to a more complex Web-based approach resulted in new requirements. Neither Health Canada nor PWGSC provided any evidence to show that they had evaluated the capabilities of the contractors to deliver on those new requirements. They continued to issue contracts for program management and informatics to the same contractors.

8.11 Health Canada did not have an overall plan that contained clear objectives and budgets for contracting out the initiative and that specified in detail the work that the contractors were to carry out. For example, we found no evidence of routine planning tasks such as assessing contractors'

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8.11 Health Canada did not have an overall plan that contained clear objectives and budgets for contracting out the initiative and that specified in detail the work that the contractors were to carry out. For example, we found no evidence of routine planning tasks such as assessing contractors' immediate and longer-term needs for computer equipment and software. The Department also purchased a software package to help manage information and made major changes to it. Since 1998, Health Canada has invested more than $6 million in developing and maintaining a document management system. Officials believe that while there was some value in this system, they need to look for a more cost-effective and efficient way to provide this service. At the time of our audit, they were considering alternative software packages.

Health Canada allowed the contractors to work and incur costs without a written contract

8.12 The Treasury Board Secretariat's Contracting Policy states that terms and conditions of any contract issued pursuant to the Government Contracts Regulations and the Treasury Board Contracts Directive should be in writing.

8.13 Starting early in 1997, Health Canada made a number of commitments to the contractors, who by early 1998 became the prime contractors responsible for managing the Canadian Health Network initiative. These commitments promised significant funding to cover future expenditures related to the network. On the strength of these commitments and contrary to the Treasury Board Secretariat's Contracting Policy, the contractors started work without a written contract.

8.14 In a letter to the Department, one of the contractors stated that it had completed the feasibility study and, based on departmental direction, it had proceeded to invest further staff resources and make further commitments to purchase assets and arrangements for physical space.

8.15 This contractor requested, and Health Canada agreed in writing, that all costs it incurred that related to the further development (after 10 January 1997) of the national clearing house pilot would be assumed by Health Canada. In the absence of an appropriate contract, this agreement had no limitation in scope, timing, or amount. Contracts serve to set limits on these factors, thereby protecting the Crown.

8.16 In mid-1997, officials at Health Canada advised senior management that the contractors had incurred many costs that had not been covered by a contract, but they had done so because they assumed that they would receive a contribution of up to $1.3 million to develop, operate, and evaluate the pilot.

8.17 This is contrary to the Treasury Board Secretariat's Contracting Policy, which clearly requires that the terms and conditions of any contract be in writing.

Health Canada gave authority and responsibility for managing the initiative to the contractors

8.18 Health Canada's senior management allowed a management structure to evolve that gave the contractors the authority and responsibility that typically rests with the Department. The contractors were asked to assume many of the functions such as program management and operation and administrative support. Most important, the contractors were allowed to make decisions about program management and informatics as well as make commitments to subcontractors on behalf of the government.

8.19 From June 1999 to November 2000, at which time the last contract ended, the contractor's representative held the title of Chief Executive Officer of the Integrated Management Structure of the Canadian Health Network. He sat on the Advisory Board of the network. As Chief Executive Officer, he was permitted to control many aspects of the initiative on behalf of the contractor. Under the management structure, he defined the requirements (for example, staff and equipment) and set deadlines and performance measures for what the contractor would deliver to the government. He also determined the level of funding requirements and got the Department's approval, and he chose subcontractors and negotiated their contracts. In effect, he was allowed to set his own terms and to act as if he had full authority to represent the government. This authority was not permitted in the contract.

8.20 In our view, many of the elements common to an employer/employee relationship seemed to be present in this arrangement, although we did not audit whether such a relationship had been created.

8.21 The contracts between Health Canada and the contractors were deficient in a number of key respects. They did not adequately specify the scope of work, milestones, and performance indicators. We also found that the subcontracts, like the prime contracts, were unclear about the scope of work, deliverables, milestones, and deadlines. Therefore, Health Canada had no way of either assessing the outputs or determining whether it had received good value for the money it spent.

8.22 These weaknesses are particularly significant given that most of the $17.8 million that Health Canada paid to the contractors was for subcontracts given to affiliates and regional operations centres.

Government rules and regulations were not followed

8.23 Two complementary principles are central to government contracting—best value and open access to contracting opportunities. The principle of best value is to ensure that in acquiring goods or services for the Crown, the government receives the best combination of value and price. The principle of open access gives all qualifying vendors a fair chance to do business with the Crown without political or bureaucratic favour. An open, competitive bidding process provides the best guarantee that both of these principles will be respected.

8.24 The Treasury Board Secretariat's Contracting Policy states that government contracting must be conducted in a manner that will meet the following requirements:

- stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition, and reflect fairness in the spending of public funds; and
- ensure the pre-eminence of operational requirements.

8.25 The contracting practices of Health Canada and PWGSC (Exhibit 8.2) did not reflect these principles and requirements. PWGSC awarded 27 contracts with 21 amendments for $24.4 million for program management and informatics. This amount excludes $1 million for surveys that were issued using standing offers. PWGSC used two methods to award these contracts.* Some were awarded using advance contract award notices (ACANs). Others were awarded in a series of contracts for amounts less than $25,000.

8.26 The rules were broken in the use of ACANs. These are electronic notices to potential suppliers of goods and services advising them that the government intends to award a contract to a particular person or company. Under the Treasury Board Secretariat's Contracting Policy, other potential suppliers can challenge an ACAN. Exhibit 8.3 indicates the four circumstances or "exceptions" that allow a department to award a contract after posting an ACAN.

8.27 None of the contracts awarded using ACANs met any of the four exceptions stated in the Government Contracts Regulations and the Treasury Board Secretariat's Contracting Policy. Since they did not meet any of the allowed exceptions, PWGSC should not have set aside the requirement to solicit bids, and the contracts should have been open to the full competitive process.

8.28 Furthermore, the ACANs stated that the requirement was for "research and development—medical." This was not the case; rather, the services needed were related to managing programs, developing and maintaining a Web site, and identifying sources of health promotion information. Classifying the requirement as medical research and

Exhibit 8.2 Contracting practices for the Canadian Health Network

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Program management					
8	1	0.140	Less than $25,000	Commodity	Non-competitive
3	5	12.857	Exclusive rights	R&D—medical	ACAN
1	4	4.824	Government objectives	R&D—medical	ACAN
12	**10**	**17.821**			
Informatics					
8		0.194	Less than $25,000		Non-competitive
7	11	6.386	Exclusive rights	R&D—medical	ACAN
15	**11**	**6.580**			
[illegible]	[illegible]	[illegible]			

R&D—Research and development ACAN—Advance contract award notice

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Contracts	Amendments	$ millions	Justification for limited tendering	Contract requirement	Contract method
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R&D—Research and development ACAN—Advance contract award notice

development could have discouraged suppliers who otherwise may have challenged the ACAN.

8.29 Another example of non-compliance with government rules and regulations is an ACAN that PWGSC published on 10 March 1998. This ACAN had a closing date of 20 March 1998 and was for the development, installation, and testing of a pilot telecommunications system—a multimedia call centre with Web integration. All work was to be completed by 31 March 1998. The ACAN did not meet the minimum government guideline of being posted for 15 days; nor did it meet any of the four exceptions. The contract therefore should have been open to the full competitive process.

8.30 On 31 March 1998, this contract for $300,000 was signed. It required that the contractor provide the telecommunications technology and training as contracted by 31 March 1998. PWGSC questioned Health Canada on how it was possible to meet this requirement in one day. Health Canada did not respond. PWGSC went ahead and issued the contract.

8.31 The remaining contracts were awarded for amounts less than $25,000 (contracts below $25,000 may be let without competition). The Treasury Board Secretariat's Contracting Policy states that contracting authorities (in this case PWGSC) must not split contracts or contract amendments to avoid

Exhibit 8.3 Four exceptions to soliciting bids

The Government Contracts Regulations outline four exceptions; the Treasury Board Secretariat's Contracting Policy elaborates on these exceptions.

Government Contracts Regulations	Treasury Board Secretariat's Contracting Policy*
Pressing emergency	Emergencies are normally unavoidable and require immediate action . . . . An emergency may be an actual or imminent life-threatening situation, a disaster that endangers the quality of life or has resulted in the loss of life, or one that may result in significant loss or damage to Crown property.
Value of less than $25,000	Specific dollar limit.
Not in the public interest	Should normally be reserved for dealing with security considerations or to alleviate some significant socio-economic disparity.
Only one person (firm) capable of performing the work	Should be invoked only where patent or copyright requirements, or technical compatibility factors and technological expertise, suggest that only one contractor exists. This exception should not be invoked simply because a proposed contractor is the only one known to management.

*According to the Contracting Policy, any use of the four exceptions should be fully justified on the contract file or, where applicable, in submissions to the Treasury Board.

Source: Government Contracts Regulations (Section 6) and Treasury Board Secretariat's Contracting Policy (Section 10.2.2 to 10.2.5) development could have discouraged suppliers who otherwise may have challenged the ACAN.

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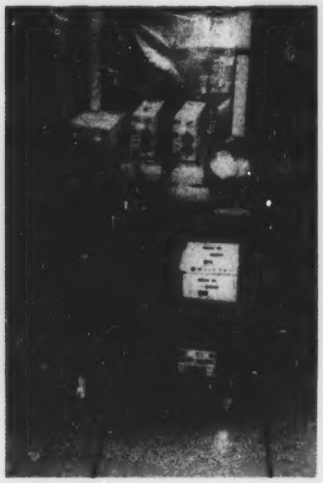
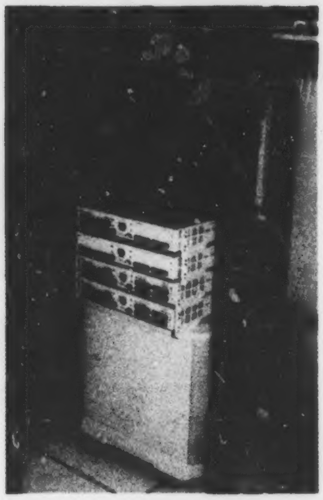
Much of the expensive and specialized equipment Health Canada purchased was still in a warehouse.



Battery backup power source

Computer monitors



Computer network communication equipment

obtaining the necessary approvals. The policy describes contract splitting as the practice of unnecessarily dividing an aggregate requirement into a number of smaller contracts.

8.32 We found that a number of contracts for less than $25,000 were issued to the same contractors, for similar requirements and for the same project. Awarding the contracts in this manner allowed PWGSC to avoid the necessity of going through a competitive process.

Health Canada did not control and manage the assets that it provided to the contractor

8.33 Part V, section 62 of the *Financial Administration Act* states that the deputy minister of every department "shall maintain adequate records related to public property for which the department is responsible."

8.34 Health Canada had purchased directly or allowed the contractors to spend more than $2 million on leasehold improvements, computers, office furniture and equipment, and telephone systems. Some of these assets were not needed or used, and some were not used for their intended purposes.

8.35 Health Canada had not maintained a complete inventory listing of items purchased on its behalf. When the contract expired in November 2000, Health Canada took control of the assets that it could identify. In the absence of a complete record of the inventory, the Department was not able to determine whether all assets had been recovered. In addition, more than a year later, much of the expensive and specialized equipment purchased was still in a warehouse. The Department has recently started to identify potential users, with a view to redeploying equipment in the Department wherever possible.

Audits of Canadian Health Network contracts identified significant overclaims

8.36 The contractors submitted claims to Health Canada against the $17.8 million of signed contracts. These claims represented expenses that the contractors and their subcontractors had incurred. Claims covered items such as labour, materials, supplies, and large amounts of software, hardware, and miscellaneous items. PWGSC reviewed the claims and sent them to Health Canada for acceptance and payment.

8.37 Early in 2000, PWGSC decided to audit three contracts representing 98 percent of the total activity ($17.8 million) associated with program management contracts. This decision was a result of the following:

- Health Canada's continuing receipt of claims for progress payments that contained a large number of errors/omissions; and
- Health Canada's proposal to renew the contract for an additional $28 million.

8.38 PWGSC has now audited about $6.5 million in claims and identified more than $800,000 or 12 percent in overclaimed amounts. Audit work is still ongoing. Both departments have informed us that work is under way and that any overclaimed amounts will be dealt with once the PWGSC audits are finalized.

Health Canada has begun to take corrective action

8.39 In May 2000, senior management at Health Canada appointed an Executive Director to take charge of departmental interests related to the Canadian Health Network and deal with the growing number of concerns.

8.40 The Department has changed the management of the initiative in two key respects. First, it is now managing the network in-house, rather than contracting out. Second, it is providing funds to its affiliate organizations (formerly subcontractors) through contributions, not contracts. It is too early to know whether these changes will lower costs or improve the initiative's effectiveness.

8.41 Health Canada provided us with information indicating that it took action in October 2000 to review current departmental policies and procedures and the infrastructure regarding the management and use of government service contracts. The review was precipitated by the findings of the Internal Audit Directorate, our November 1999 Report, and the recommendations of the Standing Committee on Public Accounts.

8.42 In early 2002, Health Canada provided us with its action plan. We were encouraged to see that this plan addresses many aspects of contracting management. Key elements of the plan, including the scope, the role of senior management, and the commitment for an internal audit in 2003–04, will provide the basis upon which Health Canada will improve its contracting practices. We noted that the action plan does not include the need for proper up-front planning, supported by robust analysis. This is important because contracting should be pursued only if it is identified as the best option. The action plan also does not address the requirement to properly control and manage government assets.

8.43 We have shared our views on the action plan with the Department's officials, and they have made commitments to ensure that the final plan will address all of our concerns.

8.44 Health Canada recently began to implement the plan, and it has provided documentation to support what it had accomplished by the end of January 2002. A project manager has been hired and has started work. About 300 of the 1,600 employees who have contracting authority and were targeted for training have attended sessions organized by the Department. A course for members of the Contracting and Requisitioning Control Committee is also being developed.

8.45 The action plan includes an internal audit in 2003–04 to determine the effectiveness of the plan and the management systems, practices, and controls in Health Canada. We look forward to having an opportunity to review the internal audit report.

Conclusion

8.46 Health Canada allowed contractors to begin work without a written contract, on the basis of verbal commitments. PWGSC, as the contracting authority, should have taken steps to ensure that all the contracts issued were in accordance with the government rules and regulations. In the case of contracts that did not meet any of the allowed exceptions to the competitive process, PWGSC should not have set aside the requirement to solicit bids and the contracts should have been open to the full competitive process. In addition, Health Canada failed to maintain appropriate control over Crown-owned assets.

8.47 Health Canada has developed a plan through which it intends to strengthen contract management throughout the Department. The plan includes a commitment by the Department to have its Internal Audit Directorate carry out a review and report on the effectiveness of the plan's implementation. Our Office intends to review the scope of the work and findings once a report becomes available.

Health Canada's response. Health Canada senior management is committed to rigorous contract management practices across the Department.
A comprehensive review was completed in April 2001 and an action plan developed. Implementation is well under way, with a Contract Management Framework and mandatory training as key components. The action plan deals with four major themes: responsibility, accountability, oversight and monitoring, and audit.

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National Defence

Military satellite communication system is unused and placed in storage

In brief

In 1991 National Defence contracted for a military very long-range communication system (VLRCS) to provide satellite communications to deployed forces. This system was completed in 1997–98 at a cost of $174 million. While it was being developed, National Defence purchased and leased commercial equipment to satisfy immediate international peacekeeping requirements. By the time the VLRCS was delivered, the Department regarded the commercial system as an alternative to the VLRCS. Furthermore, the VLRCS required an additional 50 people to operate it and an additional $15 million to bring it to current technical standards. National Defence therefore took delivery of the VLRCS but placed it in storage, where it remains. The Department has taken action to address most of the management deficiencies that contributed to the failure to field the VLRCS, but it still needs to ensure effective management oversight of major projects. In 1999 National Defence decided to examine the possibility of combining the two systems in order to meet requirements and obtain some value from its expenditure. A decision is expected in early 2002, but additional expenditures may be required.

Background

8.48 In 1991 National Defence started the Tactical Command, Control and Communication System (TCCCS) project to replace outdated army radio equipment with a secure, highly capable, and fully integrated communication system. The total cost estimated in 1991 was $1.85 billion, increased in 1994 to $1.9 billion. Delivery of equipment began in 1996 and will continue into 2002.

Tactical long-range communication terminal (TLRCT) in the field

Inside the TLRCT equipment shelter

8.49 The very long range communication system—a subcomponent of the TCCCS project—was purchased to modernize and extend the range and capability of communication systems among deployed units by using satellite communications. The system comprised medium- and long-range terminals deployed in the field, and strategic gateways located in Canada that connected Canada with the deployed terminals. It was conceived and designed as a closed military system, capable of battlefield use and meeting the requirements of both departmental strategic communications and the Army; as such, it was protected against nuclear, chemical, and biological agents. It was mobile, transportable, and interoperable within the Canadian Forces and with other allied forces, using both military and commercial satellites. National Defence was to provide manning, maintenance, and training. The Defence Information Services Organization, now the Information Management Group, agreed to man the gateway installations in Canada and to provide life cycle material management support for the complete system.

8.50 The VLRCS was delivered for about $174 million. After several alterations and changes, due to funding constraints and the merging of the Army's and the Information Management Group's strategic requirements, the system included two gateway equipment suites valued at $38 million, 17 tactical long-range communication terminals (TLRCTs) valued at $126 million, and nine high-frequency mobile communication terminals (MCTs) valued at $10 million. All MCTs and four TLRCTs were to be delivered to the Army, while 13 TLRCTs and both gateway suites were to be supplied to the Information Management Group.

8.51 However, with the exception of the MCTs, which are all in use, the Department never fielded the VLRCS. In a series of decisions in 1997, 1998, and 1999, National Defence took delivery of the TLRCT and gateway suites and placed them in storage, where they remain. At this point, the Department has spent $164 million on equipment that has not yet been used, although it was paid for in 1995–96.

Issues

Causal factors

8.52 We have identified a number of causal factors that have led to the situation outlined above.

8.53 **Requirement undefined.** The initial decision to incorporate the VLRCS requirement in the TCCCS project, before a concept of operations was developed and before design and definition were completed, resulted in numerous changes to the requirement and to the concept of employment. Changes continued until 1995. It appears that the Information Management Group never defined the capability it required. This is part of the reason why proof-of-concept studies are still being worked on today.

8.54 **Lack of separate project review and approval.** Managing TCCCS as an umbrella project rather than an omnibus project created a project structure that made departmental oversight and review of individual parts difficult. If TCCCS had been managed as an omnibus project, preliminary approval would have been granted for the overall project; then separate approval would have been required for each major component. Costing almost $200 million, the VLRCS project was large enough to be considered a major Crown project in its own right. Individual management of major components would have allowed more time for definition and would not have locked the project into a fixed-cost solution before definition was completed. It would also have provided more review and control, as each component would have become visible during the approval process.

8.55 **Failure to adjust requirements.** When it became apparent that the commercial system, which was being used to support overseas deployments, was operationally effective and less expensive to operate than the VLRCS, the Department should have revisited the policy requirement for a military system, the rationale for procuring the VLRCS. Conversely, the Department failed to accommodate the policy requirement for a military communications capability when the decision was made not to field the VLRCS.

8.56 **Failure to integrate competing systems.** The Department should have developed a transition plan to integrate the two systems as the VLRCS neared completion, or it should have determined a course of action for the future once it knew there would be two competing capabilities. This should have been undertaken during 1996–97, before the VLRCS was completed. Unwilling to make a decision to cancel the program, the Department waited until delivery before examining its options to redress the problem.

8.57 **Divided responsibility.** A divided responsibility and accountability framework split the requirement between managers and separated the management of the project from the client base and technical expertise. As a result, the Information Management Group developed its own system in isolation to meet urgent requirements, and it did not develop the transition plan required for integrating the two systems. Furthermore, the Army was left in an untenable position for funding when the Group decided not to field the system.

8.58 **Lack of independent management review and oversight.** If an independent review had been conducted at the corporate level, the issue of cancellation or transition might have been raised to senior management for a decision earlier in the process. Although the question of cancellation/termination had been discussed and rejected by the Senior Review Board as early as 1995, it appears that the issue of not fielding the VLRCS was presented to the Program Management Board only in February 1999.

8.59 **External factors.** There were two other causal factors that influenced decision making and over which the Department did not have control. One was the changing strategic environment, which led to overseas deployments in peacekeeping operations as opposed to war fighting, and therefore lessened the demand for mobile, hardened military systems. The other factor was the dramatic cuts in budgets and personnel that occurred throughout the mid-1990s. As a direct result of these cuts, the Information Management Group decided not to field the gateway component of the system because of the requirement for 50 people to operate the equipment. It also decided not to fund the $15 million needed to upgrade the TLRCTs to current technical standards in 1999, and it placed both components in storage.

Lessons learned by National Defence

8.60 The Department learned a number of lessons, especially involving the management of high-technology projects. These lessons relate, in part, to the government process of evolutionary procurement; this is a phased approach that focusses on the end product being acquired to meet a capability deficiency, with off ramps for each phase. The process helps to ensure that definition of each phase is completed before funds are allocated for implementation. It also reduces the likelihood of technology overtaking projects, and it should increase project visibility and managerial responsibility. The Department recently adopted this approach for managing the Canadian Forces Command System Project, and that should help avoid the problems that resulted from the initial departmental decisions in managing the VLRCS project.

8.61 National Defence has also taken steps to reduce risk and improve the efficiency of its acquisition process in general and its information management projects in particular. The Department published an Acquisition Reform Guide in February 1999. Under these reforms, commercial off-the-shelf procurement will become the norm for information management projects. Should development be required for unique military needs, a new procurement concept has been put in place that focusses on allowing industry to provide solutions to a capability deficiency. The Information Management Group has also made a number of conceptual, policy, and organizational changes, which should provide for more visibility and managerial control over information projects and ensure department-wide co-ordination among users. These changes should help prevent a recurrence of the problems in adjusting requirements and in accountability.

8.62 The issue of transition planning is also being addressed. The Department is currently completing a proposal to develop a hybrid system, incorporating the best aspects of both systems it acquired. It completed engineering studies, trials, and assessments during 2001, along with technical feasibility studies, implementation studies, and operations and maintenance cost studies. The Information Management Group is finalizing the options analysis package, which will include the costs of integrating this hybrid system into its strategic structure. While this initiative is four or five years late, it may lead to most of the TLRCTs being used.

8.63 This project raises questions about the structure of senior review boards and their effectiveness. The senior review boards are meant to provide oversight of major projects, but they are chaired by senior officials with management responsibility for the same projects they are overseeing. Board members may therefore be hesitant to formally identify problems. The Vice Chief of the Defence Staff has already expressed the need for senior review boards to provide rigorous examination of projects. He also stated that they are to deal with all project issues and to provide full and open departmental review of projects.

8.64 The Department has strengthened corporate review. By the late 1990s, the Director General, Strategic Planning and the Chief, Review Services had filled the vacuum left by the closing of the Program Branch in 1992. For example, in 1999 at a Senior Review Board meeting, the Director General, concerned about the Information Management Group's decision not to field the VLRCS, called for an audit of the decision. This was the first time this review mechanism had been used. The Department needs to ensure that senior analytical and audit staff continue to be involved in senior review boards. In addition, the Department needs to consider the composition of senior review boards to ensure that they are sufficiently independent from the management of the projects they oversee.

Conclusion

8.65 In the late 1990s, National Defence acquired the VLRCS, a satellite communication system for $174 million. Although one component is in service—the mobile communication terminals, which cost a total of $10 million—the rest of the system has never been fielded and currently sits in storage. National Defence later decided to examine the possibility of defining a hybrid system, essentially combining both the VLRCS and the commercial system that the Department acquired and is using. Such a system would respond to increased communication requirements resulting from new operational deployments and increased demand. A decision on the hybrid system is expected in 2002.

8.66 National Defence paid $164 million for components of a military satellite communication system and has yet to receive any value for this expenditure. Changes already made to the acquisition process and to the organization and management of information services should address a number of the systemic causes that produced this situation. The Department now needs to continue with the recommendations made by the Vice Chief of the Defence Staff to strengthen the independence and functioning of senior review boards.

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Canada Customs and Revenue Agency

Process for renewal of duty-free shop licences needs to be improved

In brief

The Canada Customs and Revenue Agency did not award a future duty-free shop licence through an open, competitive process upon expiration of the existing licence, despite a commitment in response to our 1997 Report. In 2000, the Agency advised us that at the end of a one-year extension, the licence would be tendered unless the results of the regulatory review dictated otherwise or the Minister decided at that time, for other reasons, that a tendering action was not appropriate. The Agency has now determined that tendering was not in the public interest and was no longer considered appropriate because the licensee was eligible for licence renewal, having met the regulatory requirements.

The initial award of most licences by the Canada Customs and Revenue Agency to operate duty-free shops has been consistent with the Agency's standards and practices. However, when these licences are renewed, the Agency does not always ensure that the shops continue to meet program requirements; nor is it consistent in ensuring the control of duty-free goods at the shops. Furthermore, not having carried out a formal program review or evaluation, the Agency does not know the extent to which the program is meeting its objectives.

Background

8.67 The Canada Customs and Revenue Agency is responsible for issuing and renewing licences to operate duty-free shops and for monitoring their ongoing operation. Currently, duty-free shops operate at 35 land border crossings and at 19 airports. Gross revenue for the shops is about $370 million annually.

8.68 The duty-free shop program is administered under the *Customs Act* and the Duty Free Shop Regulations. The Agency has also established policies and procedures for carrying out this responsibility.

8.69 In December 1997, we reported that in awarding duty-free shop licences at one location in 1995 and 1997, the Canada Customs and Revenue Agency (at that time Revenue Canada) had departed from its own standards and practices.

8.70 The Agency's position was that the applicants for the licences in question satisfied all requirements under the law and regulations as they pertain to the operation of duty-free shops at land border crossings. The Agency said that the decision to award the licences without recourse to an open tendering process complied fully with the law; however, it undertook to conduct a full review of the Duty Free Shop Regulations. The Agency also indicated that after the current licence expired, it would award any future licence at that site through an open, competitive process, notwithstanding any position the owners of the land might take in advance.

8.71 In 2000 we followed up on our December 1997 Report and the Agency advised us, "At the end of the one-year extension, the licence will be tendered unless the results of the regulatory review dictated otherwise or the Minister decided at that time, for other reasons, that a tendering action is not appropriate."

8.72 As a result of our observations in 1997, we reviewed the duty-free shop program to determine the Agency's practices in awarding licences and its ongoing controls and administration of the program. We reviewed files related to 36 of the 54 duty-free shops. In addition, we followed up on the Agency's actions in response to our 1997 audit.

Issues

Licences awarded at land border crossings were consistent with the Regulations and policies, but for licences at airports, assurance of meeting financial regulatory requirements is needed

8.73 The Duty Free Shop Regulations require that applicants to operate a licensed facility at a land border crossing be Canadian citizens or permanent residents of Canada. A corporation must be incorporated in Canada and all shares must be beneficially owned by Canadian citizens or permanent residents of Canada. The Agency's policies and procedures require that applications for establishing duty-free shops at land border crossings be invited by national advertisements. Successful applicants are selected on the basis of an evaluation and ranking of individual proposals. The proposals must provide detailed information in seven areas, as identified in the Regulations and policies. We found that all licences for duty-free shops at land border crossings, with the exception of awards discussed in our 1997 Report, met these requirements and were awarded in a manner consistent with the Agency's standards and practices.

8.74 The operators of duty-free shops at airports are selected by the local airport authorities, or by Transport Canada where the federal government operates the airport. The Canada Customs and Revenue Agency is responsible for issuing the licences to operate the shops. The Duty Free Shop Regulations require that applicants have "sufficient financial resources." This requirement is for both land border and airport shops. The Agency informed us that for airport shops it accepts proof of a lease as a demonstration of an applicant's ability to satisfy financial requirements under one part of the Regulations. It also stated that under the other part, the requirement for sufficient financial resources is minimal in an airport environment and thus there is no requirement to conduct a separate review of financial resources. We believe that the Agency needs to obtain assurance from the individual airport operators that their review of applicants' financial resources is sufficient to satisfy the regulatory requirements.

The Agency does not always ensure that all program requirements are met when renewing licences

8.75 The Agency's policies and procedures require that a performance evaluation be conducted when a licence comes up for renewal. The performance evaluation is to determine if the shop carried out its undertakings and met program requirements. However, over time, the Agency has reduced the information requested from land border shops and no longer conducts the performance evaluation prior to renewing a licence. Further, the Agency does not conduct the required performance evaluations for airport shops and does not request that airport operators conduct the performance evaluations.

8.76 When a licence is to be renewed, a memorandum is prepared for the Minister with a recommendation for renewal. While regulatory requirements are verified, the Agency's policies and procedures for renewal of a licence require that audits be conducted annually. In three renewals we examined, the Minister had been informed that audits supported the decision to renew; in fact, no audits had been conducted in the previous two years or more prior to the renewals.

Audits of duty-free shops not conducted annually

8.77 The Agency has established reporting and control policies and procedures to ensure that products sold at duty-free shops are exported and do not avoid government taxes or harm the domestic market. The policies require that the Agency conduct an audit of each shop at least once a year.

8.78 We noted that the Agency did not conduct annual audits of the shops at 10 of the 28 border crossings we examined. We found no audit plan or risk assessment supporting the Agency's decision to deviate from its established policy and procedures. Nor is there a central control to ensure that audits are conducted and results reported.

The Agency has not measured the extent to which program objectives are being met

8.79 Section 26 of the *Customs Act* requires that "the operator of a duty-free shop shall ensure that the prices of goods offered for sale at the duty-free shop reflect the extent to which the goods have not been subject to duties and taxes." For the shops at land border crossings, the program objectives are as follows:

- to ensure that the operation of duty-free shops meets customs requirements and conforms generally with sound business practices;
- to provide economic benefits to Canada by promoting the sale of Canadian goods;
- to offer a popular service to the travelling public with significant levels of savings;
- to encourage small business private sector ownership of these shops; and
- to ensure a federal presence and create a positive image of Canadian identity.

The airport duty-free shops do not have similar objectives.

8.80 While the Agency has some information on program objectives, it has not conducted a formal program review or evaluation to determine the extent to which the requirement of the *Customs Act* and the objectives of the land border shops are being met.

The regulatory review did not clarify the issues discussed in our 1997 audit

8.81 As mentioned earlier, we followed up on the commitments the Agency made in 1997. In 1997 it said, "In light of the issues raised by the Auditor General with respect to conflicting interpretations of the regulations and the intent of the law, the Department has undertaken to pursue a full review of the Duty Free Regulations."

8.82 The Agency completed its review of the Duty Free Shop Regulations in May 2001. However, it did not clarify the issues of concern in our 1997 audit. It did not specify what constitutes beneficial ownership of a duty-free shop licence; nor did it clarify the requirement for a competitive tendering process and a clear and consistent approach to evaluating applications for new licences. While the review resulted in some changes to the program, the Agency did not take advantage of the opportunity to use its review to clarify the issues in our 1997 Report, which are important to the consistent, transparent, and effective administration of the program.

The Agency did not follow an open, competitive process in renewing the licence discussed in our 1997 report

8.83 In our 1997 Report, we noted that there were no national tender calls in awarding duty-free shop licences for one location in 1995 and 1997. An open and competitive process adds transparency to what is, in effect, the awarding of a licence to operate a monopoly at a site. In response to our 1997 audit, the Agency noted our concerns about the transparency and credibility of the process for awarding duty-free shop licences. It stated that upon expiration of the current licences, it intended to award any future duty-free licence at that site through an open, competitive process, notwithstanding any position the owners of the land might take in advance.

8.84 In 2000 we followed up on progress and reported our findings in our December 2000 Report to Parliament. In that report, we noted that the Agency had adopted the practice of renewing duty-free shop licences for a maximum one-year term when they expired prior to completion of the review of the Duty Free Shop Regulations. Therefore, the licence at the land border crossing referred to in our 1997 Report was to be renewed for a one-year term, in keeping with the adopted practice. At the end of the one-year extension, the licence was to be tendered unless the results of the regulatory review dictated otherwise or the Minister decided at that time, for other reasons, that a tendering action was not appropriate. The one-year extension expired in July 2001.

8.85 In June 2001, the Agency renewed this licence for five years to the same licensee without an open and competitive process. At the time of the renewal, in June 2001, the Minister of National Revenue advised the Auditor General, "As the licensee continued to meet all regulatory requirements, it is my view that there is no need to tender this site." The Minister also added that it was not in the public interest to undertake a time-consuming and costly tendering action. Further, the Agency's view now is that competitive tendering was not appropriate for this licence because the licensee was eligible for licence renewal, having met the regulatory requirements.

Conclusion

8.86 With the exception of the two licences for a location discussed in our 1997 Report, the Agency awarded duty-free shop licences at land border crossings in a manner consistent with the Duty Free Shop Regulations and its own policies and procedures.

8.87 For airport shop licences, the Agency does not have an agreement or review process with the airport operators to confirm that the financial review conducted for purposes of granting the lease meets the regulatory requirement to ensure that shop operators have "sufficient financial resources." The Agency has stopped conducting performance evaluations prior to renewing a licence, and it is not consistent in auditing the control of duty-free goods at the shops. Furthermore, since the beginning of the program, about 15 years ago, the Agency has not determined the extent to which the requirement of section 26 of the *Customs Act* and the program's objectives are being met. Also, the Agency did not clarify the Regulations and the policies related to the issues raised in our 1997 audit, which are important to meeting the stated program objectives.

8.88 The Agency did not follow through on its commitment made in 1997 that on expiration of the current licence it would use an open, competitive process to award any future duty-free shop licence at that site. The reasons cited for not following an open, competitive process were that the licensee, having met the regulatory requirements, was eligible to request a renewal; and that it was not in the public interest to undertake tendering for this site.

Canada Customs and Revenue Agency's response. It is the position of the CCRA that as the licensee in question was eligible for the renewal of its duty-free shop licence, and as tendering was not in the public interest, the Minister of National Revenue acted within his rights to renew the licence as he did. This renewal reflected appropriate judgment in light of the unique circumstances of this case, and in no manner compromised the integrity of the Duty Free Shop Program. Furthermore, it should be clear that the CCRA's update in response to the Auditor General's December 2000 Report stressed that the tendering of the licence was subject to the results of the regulatory review or a decision by the Minister that tendering would not be appropriate for other reasons.

The Minister subsequently informed the Office of the Auditor General in a letter dated June 8, 2001 that, given the fact that the only suitable land for the shop would not be available to other potential bidders, the selection of the current operator was essentially predetermined; therefore, it would not be in the public interest to undertake a time-consuming and costly tendering action. Upon receipt and verification of the required renewal application against the regulatory requirements of the Duty Free Shop Program, the Minister decided not to follow a competitive process as committed to in 1997 and exercised his option to renew the licence for a five-year term.

The CCRA believes that it obtains adequate assurance of the ability of airport operators to meet financial regulatory requirements. Paragraph 3 (6) (*c*) of the Duty Free Shop Regulations states that the Minister will not issue a licence to an applicant unless "the applicant has sufficient financial resources to enable him to lease or purchase the place proposed to be operated as a duty-free shop." The CCRA accepts a copy of the lease itself as proof that this financial requirement has been met by an airport applicant.

Paragraph 3 (6) (*d*) states that the Minister will not issue a licence to an applicant unless "the applicant has sufficient financial resources to enable him to provide the facilities, equipment and personnel required under these regulations." The Regulations specify that a licensee shall provide public washrooms with disabled access and public telephones with disabled access. In the case of shops operating at airports, both these requirements are provided by the airport itself. The Regulations do not specify any requirements related to personnel or equipment. Therefore, the requirements of paragraph 3 (6) (*d*) do not apply in a meaningful way for airport applicants.

As financial requirements are minimal in an airport environment, and licensees are required to provide security to the CCRA before a licence will be issued, it is therefore the position of the CCRA that a more in-depth review of financial resources is not required.

The CCRA acknowledges that, since the inception of the Duty Free Shop Program, it has reduced the information it requests from land border shops and has adopted a less formal approach to evaluating performance prior to renewing a licence. The CCRA is satisfied that the information it currently obtains meets regulatory requirements and is sufficient to determine whether a licensee's performance has been acceptable. We have begun to update our policies, procedures, and internal form letters to reflect more accurately our current methods for assessing the eligibility of licencees for renewal.

The CCRA does not audit every shop on an annual basis. The Agency's policies will be reviewed to ensure that its audit program is providing appropriate coverage and that compliance verification is conducted on an effective risk management basis. Our policy and procedures will be adjusted to reflect the results of this review.

As part of its review of Duty Free Shop Regulations, the CCRA completed a thorough consultation process involving key private and public sector stakeholders, including information sessions to ensure that key issues were identified and addressed. Information gathered was analyzed, and a series of program models were developed in an effort to determine how the program could be enhanced to better achieve program goals. As a result of the regulatory review, a number of enhancements have been introduced in order to secure the best possible future for this program. The CCRA believes that, through the regulatory review, the Program has been closely scrutinized and opportunities to achieve program and administrative enhancements have been identified and are being put into practice. Therefore, the CCRA has no plans to undertake a further review of the Program at this time.

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Treasury Board Secretariat

Departments are paying hundreds of millions of dollars in grants before receiving Parliament's authorization

In brief In accordance with the laws of Canada, all disbursements of public money must be authorized by Parliament through annual appropriation acts and other statutes. For decades, however, with the explicit approval of the Treasury Board, departments have been making grant payments before parliamentary authority has been granted. The Treasury Board has based its approval on Parliament's annual authorization of funds to supplement departmental appropriations and to provide for "miscellaneous minor and unforeseen expenses not otherwise provided for." This parliamentary authority is Vote 5, the Government Contingencies Vote, administered by the Treasury Board Secretariat.

At various times over the past 30 years, both this Office and several parliamentary committees have questioned the use of Vote 5 for grants. The Secretariat itself has acknowledged that the use of this Vote for grant payments is a grey area, yet it has done little to resolve the issue. The guidelines it has prepared for the use of its staff in reviewing departmental requests for access to the Vote do not mention grants; nor do they define "miscellaneous minor and unforeseen expenses."

In the 2001–02 fiscal year alone, departments used temporary authority from the Government Contingencies Vote to pay, for example, $95 million in grants to the airline industry and $50 million in grants for sustainable development technology. In our view, these were not miscellaneous minor and unforeseen expenses. Moreover, at the time the departments made the payments, Parliament had not authorized them to do so—a view we believe is supported by Speakers' rulings on this issue.

Background

8.89 The Canadian Constitution establishes the Consolidated Revenue Fund and provides for the balance in the fund to be appropriated by Parliament to give the government authority to spend. It does this in two ways: through statutes with spending authority that continues from year to year; and through annual appropriation acts with authority that lapses at the end of each fiscal year. Itemized in schedules to an appropriation act are "votes" that stipulate the maximum amounts the departments can spend and for what purposes.

8.90 Parliament has approved only two exceptions to this fundamental principle. One permits payments that the government considers are urgently needed for the public good. When Parliament is not in session and there is no other appropriation that would authorize such a payment, the *Financial Administration Act* allows for the government to prepare a special warrant for the Governor General's signature, authorizing the payment.

8.91 The other option open to the government is Treasury Board Vote 5, the Government Contingencies Vote:

> Government contingencies—Subject to the approval of the Treasury Board, to supplement other appropriations for paylist and other requirements and to provide for miscellaneous minor and unforeseen expenses not otherwise provided for, including awards under the *Public Servants Inventions Act* and authority to re-use any sums allotted for non-paylist requirements and repaid to this appropriation from other appropriations.

The wording of this Vote recognizes that it is impossible to provide specific spending authority for every type of expenditure and that the government needs some flexibility to cover unforeseen expenses.

8.92 This Vote is a source of temporary funds to supplement a department's existing vote. It also permits a department to pay miscellaneous minor and unforeseen expenses for which no other spending authority exists. An amount is transferred from Vote 5 to the appropriate vote of the department to cover the unanticipated shortfall in the vote. Later in the fiscal year, Parliament approves the Supplementary Estimates, which include the amount the department received from Vote 5 as an amount the department is seeking. Parliament's approval of the Supplementary Estimates gives the department the authority to spend that amount. Since the department has already spent it using funds from Treasury Board Vote 5, the amount is then transferred back to Vote 5.

Issues

8.93 To shed light on the issues that concern us, we trace the evolution of the Government Contingencies Vote and the Treasury Board Secretariat's interpretation of this spending authority. We also present previous Auditor General comments on the use of this Vote (see page 28, "A history of the use of Treasury Board Vote 5 for grant payments").

Lack of clarity about the authority Vote 5 provides to make grant payments that Parliament has not yet authorized

8.94 Three grants that we discuss in Exhibit 8.4 raise certain issues that go to the essence of the principle that all spending must be authorized by Parliament. They illustrate our concerns with the Treasury Board Secretariat's interpretation of the authority that Vote 5 provides.

8.95 As we have noted, Vote 5 provides temporary spending authority in part for miscellaneous minor and unforeseen expenses. Normally such authority is transferred to other grants and contributions votes and not charged directly to Vote 5. However, the Treasury Board considers that where there is an urgent need for grant payments, the wording of Vote 5 gives departments the legislative authority to make them—in other words, to pay grants that Parliament has not yet authorized either individually or as a class.

Exhibit 8.4 Grants paid using the authority of Vote 5

We reviewed three grants, focussing on whether the Treasury Board Secretariat had followed its eight guidelines.

The table illustrates the magnitude and extent of the use of Vote 5 for grants, including the three we reviewed. It shows the total annual amounts in grants of over $10 million for which temporary funding was provided in the last 10 years from Treasury Board Vote 5.

Fiscal Year	Grants with over $10 million provided through Vote 5	Limit of Vote 5
	($ millions)	
1992–93	206	450
1993–94	178	450
1994–95	245	450
1995–96	182	450
1996–97	200	450
1997–98	45	450
1998–99	43	450
1999–2000	96	550
2000–01[1]	266	550
2001–02[2]	202	750

[1] An election was called that prevented departments from obtaining spending authority through the normal supplementary estimates process.

[2] Excludes Supplementary Estimates (B), which Parliament had not approved when we finalized this audit observation.

Canada Foundation for Sustainable Development Technology. In the 2001 *Public Accounts of Canada*, the Auditor General's Observations examined the use of Vote 5 to transfer $50 million to a not-for-profit corporation that would use the money for sustainable development technology in Canada. Given the government's practice of providing for retroactive spending authority in the appropriation act accompanying the next supplementary estimates, we had concluded that it would be difficult to challenge the payment of the $50 million on the basis of lack of authority. However, we suggested that due to the nature and size of the grant, it would be appropriate to review the use of temporary authority from Vote 5 to make significant grants. We said that if Parliament did not approve the next supplementary estimates and thereby provide retroactive authority for the $50 million payment to the Foundation, the grants would have been made without authority. In that event, we believed the grants could not be charged to Vote 10 of Environment Canada and Natural Resources Canada because when the departments made the payments, the grants did not fit in any of the classes of grants described in those votes.

Later, Supplementary Estimates (A) 2001–02 were tabled in Parliament. The two departments each listed a grant of $50 million to the Canada Foundation for Sustainable Development Technology, noting also that $25 million had been provided to each temporarily from Vote 5 to pay for part of the grant.

On 1 November 2001, a member of Parliament raised a point of order on these Supplementary Estimates. In ruling on the point of order, the Speaker noted that the items in the Supplementary Estimates referred to a sustainable development technology fund and that the two departments had already paid the fund $50 million using temporary funding from Vote 5.

The Speaker then asked what link there was between the $100 million requested for the fund in the Supplementary Estimates and the $50 million already paid to the not-for-profit corporation in April 2001. The Speaker noted a further complication: another act of Parliament had established the Canada Foundation for Sustainable Development Technology. He said, "Simply put, the $100 million now being sought cannot be used both to fund the foundation and to refund the Treasury Board contingencies vote for $50 million paid out earlier to the corporation."

The Speaker concluded that no authority had ever been sought from Parliament for the $50 million in grants already paid to the not-for-profit corporation. He said the note in the Supplementary Estimates on the disbursement of these funds from Vote 5 was not sufficient to be considered a request for approval of those grants.

Finally, the Speaker voiced concern over the lack of clarity and transparency in this case. He noted that the departments had the legislative authority under the *Energy Efficiency Act* and the *Department of the Environment Act* to make the grants, but they had never sought the corresponding authority under the supply process to make the actual payments. He ruled that the government therefore had to make an appropriate request of Parliament through the supplementary estimates process, before the end of 2001–02.

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Exhibit 8.4 Grants paid using the authority of Vote 5 (continued)

Although Supplementary Estimates (B), 2001–02 had been tabled in Parliament, seeking authority for the $50 million in payments made in April 2001 to the not-for-profit corporation, when we finalized this audit observation in early March 2002 there was still no parliamentary authority for the payments.

Officials of the Treasury Board Secretariat followed the eight guidelines when they reviewed the departments' request for access to Vote 5 to make the payments to the not-for-profit corporation. They told us the "sense of urgency" was that in waiting for the next supplementary estimates, this important government initiative would have lost momentum.

Airline compensation package. Grants of $152 million to Canadian airlines and specialty air operators were temporarily funded from Vote 5 to cushion losses caused by the temporary closing of Canadian air space in September 2001. The amount was later included in Supplementary Estimates (A), 2001–02. Before Parliament approved those Supplementary Estimates, Transport Canada had made payments totalling $95 million; payment authority was provided retroactively by *Appropriation Act No. 3, 2001–02*. After the Supplementary Estimates were approved, payment of the rest of the grants continued.

Officials informed us that Vote 5 was used because of the emergency arising from 11 September 2001. They also indicated that although Transport Canada had the legal mandate to make the payments in fall 2001, it lacked the funds. Staff of the Secretariat followed the eight guidelines when they reviewed Transport Canada's request for access to Vote 5. They told us that waiting for the supplementary estimates had not been an option, because some of the airline companies might have gone bankrupt had the payments been delayed.

Clayoquot Sound biosphere reserve. In its February 1999 Budget, the government announced that it was setting aside up to $12 million to support the establishment of a UNESCO biosphere reserve in Clayoquot Sound. The funds were transferred from Treasury Board Vote 5 to Environment Canada's Vote 10 and paid to the Clayoquot Sound biosphere reserve on 5 May 2000. On 30 March 2001, the authority to spend the $12 million was provided retroactively by *Appropriation Act No. 3, 2000–01*, which approved Supplementary Estimates (A), 2000–01. The Supplementary Estimates clearly mentioned that the grant to the Clayoquot Sound biosphere reserve under Environment Canada's Vote 10 had received temporary funding from Treasury Board Vote 5.

Officials of the Secretariat followed the eight guidelines when they reviewed Environment Canada's request for access to Vote 5. They told us that in their view, the urgency of the grant lay in the fact that the government had to be seen to be acting on its Budget decision to establish and fund the biosphere reserve.

A history of the use of Treasury Board Vote 5 for grant payments

Wording of Treasury Board Vote 5 has evolved. The government has provided for contingencies in appropriation acts since 1876–77. The current form of the Government Contingencies Vote reflects an amalgamation in 1964–65 of two Department of Finance votes. The Main Estimates for that year showed Vote 15 of the Department of Finance as follows:

> Contingencies—Subject to the approval of the Treasury Board, to supplement the paylist provisions of other votes; for miscellaneous minor or unforeseen expenses; and for awards under the *Public Servants Inventions Act*; including authority to re-use any sums repaid to this appropriation from other appropriations.

The 1966–67 Main Estimates changed "to supplement the paylist provisions of other votes" to read "to supplement other votes" and restricted miscellaneous minor or unforeseen expenses to those "not otherwise provided for."

The Vote first appeared as Treasury Board Vote 5 in the 1967–68 Main Estimates. It carried additional authority to supplement other votes for "other requirements" and to reuse any amounts reimbursed to the Vote that had been allotted for non-paylist requirements. Although the Vote's current limit is $750 million, the provision for reusing reimbursed amounts means that the Vote is a revolving authority.

The Treasury Board Secretariat has used the Introduction to the Main Estimates to keep Parliament informed of the changes to Vote 5. The 1978–79 Main Estimates described it as follows:

> This vote provides funds to meet relatively small expenditures of a miscellaneous character that cannot be foreseen when the Estimates are drawn up and to meet the salary costs arising out of collective bargaining agreements that come into effect in the New Year and that exceed the provision that departments made in their own votes for these costs.

The next year, "relatively small expenditures of a miscellaneous

A history of the use of Treasury Board Vote 5 for grant payments (continued)

character" became "urgent expenditures of a miscellaneous character." The 1987-88 Main Estimates dropped the mention of "urgency." In the 2001–02 Main Estimates, the description reads:

> This Vote supplements other appropriations to provide the Government **with the flexibility to meet unforeseen expenditures until Parliamentary approval can be obtained** and to meet additional paylist costs such as severance pay and maternity benefits which are not provided for in departmental estimates. [emphasis added]

Long-standing concerns of auditors general. The 1968, 1969, and 1970 reports of the Auditor General questioned the Treasury Board's use of Vote 5 to fund grants without first having Parliament's approval. In 1968, we noted that the Treasury Board had authorized eight grants without Parliament's prior sanction. In 1969 we noted the payment of seven grants from Vote 5 that had later been included in supplementary estimates; we reported in 1971 that the House of Commons had been told the grants had been "allocated" or "allotted" but not that they had already been paid. We raised similar issues in 1972, and in 1973 we asked the House to look at the related policies of the Treasury Board Secretariat.

On 26 June 1975, the Secretary of the Treasury Board told the House of Commons Standing Committee on Public Accounts that all grants paid initially from the contingencies vote were later included as a matter of course in supplementary estimates, for Parliament's consideration, with the notation that the funds were provided from Treasury Board Vote 5. Therefore, in his view, no other action was necessary.

Speakers' rulings. Over the years, Speakers of the House of Commons have made a number of rulings concerning estimates. In our view the thrust of those rulings, as they touch on the transfer of temporary authority from Vote 5 to pay for grants, is as follows:

- The government cannot establish a program through the estimates process; that process provides money only for programs already authorized by statute. The grants to airlines were funded out of Vote 5 (Exhibit 8.4) but in our view, Parliament had not authorized this spending.
- The principles of parliamentary control are simple: through legislation, the government establishes a program that is subject to Parliament's scrutiny; then it seeks Parliament's authority to spend money on that program through an appropriation act.

On 21 March 1983, the Speaker made the following ruling on a case that involved a payment of funds while the authorizing legislation was still before the House:

> The Hon. Member for Calgary Centre also objected to Vote 10c under Industry, Trade and Commerce. I agree with the Hon. Member that here the real issue is not the method used to transfer money from the Treasury Board Contingencies Vote to Vote 10c, but rather the purpose of the program for which the grant is intended. As outlined in the Estimates, the grant is to provide payments under the *Small Business Investment Grant Act* which is now before the House in the form of Bill C-136.
>
> I can only repeat what I said in my ruling of June 12, 1981, that "the Appropriation Act should only seek authority to spend the money for a program that has been previously authorized by a statute." Vote 10c clearly anticipates legislation, and, in that sense, seeks to establish a new program in the absence of other legislative authority and seeks also the funds to put it into operation. In accordance with rulings by my two predecessors and myself, I must agree with the Hon. Member for Calgary Centre that Vote 10c is also out of order. Accordingly, Vote L11c under Fisheries and Oceans and Vote 10c under Industry, Trade and Commerce, being improperly before the House, shall be deleted from the Supplementary Estimates (C) for the fiscal year ending March 31, 1983, and I so order.

Senate Standing Committee on National Finance. Over the years, this Committee has expressed an interest in the government's use of the contingencies vote. In its Third Report dated 16 December 1986, the Committee noted a discrepancy between the statement of the purpose of the Vote in Part III of the Estimates—for "urgent expenditures of a miscellaneous nature which cannot be foreseen when the Estimates are drawn up"—and the Vote's actual wording in the proposed schedule to the appropriation act, "to provide for miscellaneous minor and unforeseen expenses." The Committee recommended that TBS examine the use of Vote 5, clarify its purpose, and redraft parts II and III of future Estimates to ensure consistency between them.

The Committee also commented on the growth in the Vote's component covering "urgent or unforeseen expenditures." In the view of Secretariat officials, this was a matter of policy and the responsibility of ministers. However, in testimony before the Committee they stated:

> The very vagueness . . . in the wording of the Vote where we refer to miscellaneous, minor and unforeseen expenditure is open to all kinds of interpretation . . . in summary . . . there is a tremendous grey area in the wording of the Vote. That means there is a lot of latitude for government to decide how they would like to use this particular Vote and the circumstances under which they can do so.

The Committee concluded that the ambiguous wording on the use of this allotment and the absence of any guidelines left Vote 5 susceptible to abuse. It recommended that the Treasury Board Secretariat draw up guidelines on the use of the Vote in "urgent and unforeseen" circumstances so that Parliament could give it closer scrutiny.

8.96 In our view, when amounts are transferred to a departmental vote they may be spent only in accordance with the wording of that vote. For most operational votes, this is not a problem. However, for grant payments the sums are transferred to departmental votes worded, "The grants listed in the Estimates." At the time that many of the grants funded temporarily from Vote 5 are paid by departments, they are not yet listed in the Estimates. These grants are not listed until Supplementary Estimates are prepared. Parliament's approval of the Supplementary Estimates provides retroactive authority for this spending. This means that in the fullness of time, the grants are authorized by Parliament but they have not been authorized on the day the payments are made.

8.97 Although the Treasury Board has transferred the funds to departmental votes, it relies on the phrase "to provide for miscellaneous minor and unforeseen expenses" as the legislative authority for the grant payments. In our view, this language is sufficiently broad that arguably it establishes authority for practically any payment if the funds are paid directly from the Vote without first being transferred to a departmental vote. We question whether this lack of clarity is appropriate given the increasing use of the Vote to temporarily fund grant payments.

8.98 The Treasury Board Secretariat maintains that this use of the Vote has been more restrictive than uses authorized by Parliament. In considering requests from departments for access to Vote 5, the Treasury Board requires that a department have legislative authority to make the desired payment; that is, the type or purpose of the payment must clearly fall within the department's statutory authorities or mandate. However, program authority—the authority to make payments of a particular nature—must be distinguished from spending authority—authority to spend in advancing program objectives. Program objectives are found in substantive legislation. The related spending authority is provided through appropriation acts.

8.99 We recognize that the government must ensure that it has enough flexibility to deal with unforeseen events. However, we are concerned that the Secretariat's views on the use of Vote 5 allow for large amounts of public money to be spent before receiving Parliament's authorization. The grant for sustainable development technology described in Exhibit 8.4, for example, raised a significant question that we first outlined in the Auditor General's Observations in the 2001 *Public Accounts of Canada*: the authority for Environment Canada and Natural Resources Canada to pay out the funds upon being notified of the transfer of authority from Vote 5.

8.100 We noted that when they made the payments in April 2001, the wording of Vote 10 for each of the departments—the votes through which the funds were channeled—did not contemplate grants of this kind or magnitude. We also noted, however, that subsequently Parliament's approval of the specific items through the Supplementary Estimates would provide the spending authority retroactively. At the time of this writing, the $50 million in grants paid almost one year earlier still had not been authorized, although

the request for authority through Supplementary Estimates (B) 2001–02 was then before Parliament.

8.101 The Treasury Board Secretariat contends that the phrase "to provide for miscellaneous minor and unforeseen expenses not otherwise provided for" constitutes the required authority. By this interpretation any payment could be made under Vote 5, but the Secretariat's eight guidelines (Exhibit 8.5) do place some restrictions on this spending power. The Secretariat will not recommend access to Vote 5 unless the Treasury Board can be shown that the department has a legal mandate to make the expenditure. In addition, the Treasury Board must be assured that terms and conditions or funding agreements for the grants have been approved.

Exhibit 8.5 The Treasury Board Secretariat's eight guidelines

The Secretary of the Treasury Board in 1989 reported to the Senate Standing Committee on National Finance on the Secretariat's approach to reviewing departmental requests for access to the Government Contingencies Vote. The following are some of the guidelines set out in that report, as approved by Treasury Board:

1. As the authority for payments out of the contingencies fund is contained in the Vote 5 wording, all such payments must be fully consistent with that wording itself (if necessary, they could be legitimate charges to Vote 5).
2. As a general rule, permanent charges will not be made to the Vote for requirements other than paylist shortfalls or awards under the *Public Service Inventions Act*. All other advances from the Contingencies Vote should be considered temporary advances to be covered by items included in subsequent Supplementary Estimates and reimbursed when the associated appropriation act is passed.
3. When cash advances are requested to meet a financial requirement, the Treasury Board must be assured that the payment is within the legal mandate of the department and that there is a valid cash requirement that must be met before Supplementary Estimates are approved.
4. When making a transfer to provide authority for a payment, the Treasury Board must be satisfied that there is valid and sufficient reason why the payment must be made before normal parliamentary approval is received. If the payment could reasonably be deferred until Supplementary Estimates are tabled and Parliamentary authority granted via an appropriation act, the contingency funding should not be provided to grant such authority.

In 1996, the Secretariat added the following guidelines:

5. Sufficient funds must be available within Treasury Board Vote 5.
6. The department's existing appropriated authority must be insufficient to cover existing requirements and those of the new initiative (excluding grant items) until the end of the current Supply period.
7. There must be a sense of urgency related to the initiative such that the expenditure must be made prior to Parliament's approval of the item in an appropriation act.

And, more recently:

8. There must be a valid, legally incorporated recipient in existence to whom the grant is to be paid.

These guidelines remain in effect today, and the Secretariat uses them to assess each departmental request for access to Vote 5. It then submits the request to the Treasury Board with its recommendations. Of the eight guidelines used by Treasury Board Secretariat staff, only the first four above have been approved by Treasury Board ministers as formal Treasury Board policy.

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8.102 However, in his ruling of 22 November 2001, the Speaker of the House of Commons distinguished between the legislative authority in principle to provide grants and the related authority under the Supply process to make the grant payments. We, too, consider this a fundamentally important distinction. We do not question that Environment Canada and Natural Resources Canada are the appropriate departments to make a grant for sustainable development technology, given the activities within their legislative mandates. However, the authority to spend public money on such a grant is not provided in their mandates. It is Parliament that provides the authority, through an appropriation act.

8.103 The government's practice of temporarily transferring grant amounts to departmental votes that do not include payment authority weakens Parliament's control over government spending.

No definition of "miscellaneous minor and unforeseen expenses not otherwise provided for"

8.104 The Treasury Board Secretariat has no guidelines or criteria that indicate what expenses could be considered "miscellaneous minor and unforeseen expenses." This has permitted the Treasury Board to use the contingencies vote to fund items not provided for in the Main Estimates but whose inclusion in future supplementary estimates it has approved.

8.105 While it is clear that the Secretariat has developed no definition or policy guidance on the interpretation of this phrase, "miscellaneous minor and unforeseen expenses" is not without ordinary meaning. In our view, it is not clear whether several grant payments made with the authority of Vote 5, including the three grants described in Exhibit 8.4, were "miscellaneous minor and unforeseen expenses," as intended by Parliament.

8.106 It is difficult to characterize the Canada Foundation for Sustainable Development Technology and Clayoquot Sound grants as unforeseen. The Foundation initiative was announced in the February 2000 Budget, over a year before the funds were paid. The Clayoquot Sound initiative was announced in the February 1999 Budget; the grant was paid on 5 May 2000, the day the Prime Minister attended the official commemoration of the designation of Clayoquot Sound as a UNESCO biosphere reserve. It is thus apparent that neither of these grants was unforeseen.

8.107 Were they minor? The officials we interviewed at the Treasury Board Secretariat gave different answers for what "minor" meant.

8.108 The airline compensation package was announced by the Minister of Transport on 2 October 2001. The need for a compensation package as a result of the closure of Canadian air space following the terrorist attacks of September 11 was certainly unforeseen; further, the situation was clearly urgent. But was the amount "minor"? If not, it is our view that the government had other means available to make these payments.

8.109 There was a precedent, for example, in Supplementary Estimates (B) 1986–87, which requested additional funds for a special program of financial assistance to cushion the impact of the global subsidy trade war on Canadian farmers. All parties agreed to consider the appropriation bill in the House of Commons the next day. The program was discussed during review of the bill by the Committee of the Whole. The bill was passed by the House of Commons, was referred immediately to the Senate for approval, and received royal assent within hours. This exercise was a departure from the established convention and set a precedent whereby Parliament was asked, as a result of special circumstances, to debate an issue even though the Minister of Agriculture had sufficient program authority to deliver such an initiative.

8.110 The government could have used this precedent, in our view, for the grants to airlines. Legislation could likely have been prepared, tabled, passed, and given royal assent when Parliament was in session between 17 September and 5 October 2001, in time to avoid airline bankruptcies.

Conclusion

8.111 The use of the Government Contingencies Vote to make large grant payments continues despite concerns expressed over the past 30 years by this Office and by Parliament. As a result, hundreds of millions of dollars are being paid before receiving Parliament's authorization. Members of Parliament and Speakers of the House of Commons have questioned this use of the Vote by the government; and even within the Treasury Board Secretariat itself, officials differ on the meaning of the Vote's wording.

8.112 **Recommendation.** Given the evolution of the use of Vote 5, Parliament, through the Senate Standing Committee on National Finance and the House of Commons Standing Committee on Public Accounts, may wish to consider examining the wording of the Government Contingencies Vote to ensure that the use of the Vote for grants reflects Parliament's intent. The Treasury Board Secretariat should respond to the committees' recommendations in accordance with parliamentary procedures.

8.113 **Recommendation.** The Treasury Board Secretariat should submit to the Treasury Board for its approval a formal policy or guidelines on the use of the Government Contingencies Vote for grants. The policy or guidelines should clarify the interpretation of "miscellaneous minor and unforeseen expenses" in relation to grants. The Secretariat should communicate the policy or guidelines to its analysts.

8.114 **Recommendation.** The Treasury Board should report to Parliament in the Supplementary Estimates any exceptions to its policies or guidelines governing access to Vote 5 for grants, and the reasons for the exceptions.

Treasury Board Secretariat's response. It is the position of the Treasury Board Secretariat that the use of Treasury Board Vote 5 as a source of interim authority to make payments for urgent and unforeseen expenditures, including grants, is both essential to the maintenance of good government and within the law. Moreover, it is consistent with previous Speakers' rulings on the subject as well as parliamentary precedent and tradition, as evidenced by its many years of use for this purpose. All grant items initially paid from Vote 5 are later included in supplementary estimates and, in response to previous questions raised by the Auditor General and Parliament, are clearly flagged for Parliament's attention.

The Treasury Board, as outlined in the audit observation, has approved guidelines for analysts on recommending access to Vote 5. These have evolved over the years. As indicated in the three case studies, the Secretariat followed these guidelines in each of the cases.

The Secretariat will update these guidelines and present them to Treasury Board ministers for approval. The guidelines will be communicated to all Treasury Board Secretariat analysts to ensure their consistent application to departmental submissions.

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